



SPONSOR: Rep. Willis

HOUSE OF REPRESENTATIVES
146th GENERAL ASSEMBLY

HOUSE AMENDMENT NO. 1

TO

HOUSE BILL NO. 352

1 AMEND House Bill No. 352 by deleting the enactment clause and making insertions as shown by underlining:

2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

3 FURTHER AMEND House Bill No. 352 by striking line 3 and by making insertions as shown by underlining:

4 Chapter 84. RECREATIONAL VEHICLE OR RECREATIONAL TRAILER MANUFACTURER-DEALER
5 AGREEMENTS.

6 FURTHER AMEND House Bill No. 352 by striking lines 5 through 7 and by making insertions as shown by
7 underlining:

8 (a) The intent of the Legislature is to protect the public health, safety, and welfare of the residents of the
9 State by regulating the relationship among new recreational vehicle dealers, manufacturers, distributors, and suppliers;
10 maintaining competition; and providing consumer protection and fair trade.

11 FURTHER AMEND House Bill No. 352 by striking lines 10 through 72 and making insertions as shown by
12 underlining:

13 § 8402. Definitions.

14 As used in this chapter, the following definitions apply:

15 (1) "Area of sales responsibility" means the geographical area, agreed to by the new recreational vehicle
16 dealer and the manufacturer in the manufacturer-dealer agreement, within which the new recreational vehicle dealer has the
17 exclusive right to display or sell the manufacturer's new recreational vehicles and new recreational trailers of a particular
18 line-make to the retail public.

19 (2) "Distributor" means a person, firm, corporation, or business entity that purchases new recreational
20 vehicles or new recreational trailers from a manufacturer for resale to new recreational vehicle dealers.

21 (3) "Factory campaign" means an effort on the part of a warrantor to contact new recreational vehicle or new
22 recreational trailer owners or new recreational vehicle dealers in order to address a part or equipment issue.

- 23 (4) "Family member" means a spouse, child, grandchild, parent, sibling, niece, or nephew, or the spouse
24 thereof.
- 25 (5) "Fifth-wheel trailer" means a vehicle, mounted on wheels, designed to provide temporary living quarters
26 for recreational, camping, or travel use. A "fifth-wheel trailer" must be of such size and weight as to not require a special
27 highway movement permit, and must be designed to be towed by a motorized vehicle that contains a towing mechanism
28 that is mounted above or forward of the tow vehicle's rear axle.
- 29 (6) "Folding camping trailer" means a vehicle that is mounted on wheels and constructed with collapsible
30 partial side walls that fold for towing by another vehicle and unfold at the campsite to provide temporary living quarters
31 for recreational, camping, or travel use.
- 32 (7) "Line-make" means a specific series of new recreational vehicles or new recreational trailers that:
- 33 a. Are identified by a common series trade name or trademark;
- 34 b. Are targeted to a particular market segment, as determined by their decor, features, equipment,
35 size, weight, and price range;
- 36 c. Have lengths and interior floor plans that distinguish the new recreational vehicles or new
37 recreational trailers from other new recreational vehicles or new recreational trailers with substantially the same
38 decor, equipment, features, price, and weight;
- 39 d. Belong to a single, distinct classification of new recreational vehicle or new recreational trailer
40 types having a substantial degree of commonality in the construction of the chassis, frame, and body; and
- 41 e. The manufacturer-dealer agreement authorizes a new recreational vehicle dealer to sell.
- 42 (8) "Manufacturer" means a person, firm, corporation, or business entity that engages in the manufacturing of
43 new recreational vehicles or new recreational trailers.
- 44 (9) "Manufacturer-dealer agreement" means a written agreement or contract entered into between a
45 manufacturer and a new recreational vehicle dealer that fixes the rights and responsibilities of the parties and pursuant to
46 which the new recreational vehicle dealer sells new recreational vehicles or new recreational trailers.
- 47 (10) "Motor home" means a motor vehicle designed to provide temporary living quarters for
48 recreational, camping, or travel use. A "motor home" must contain at least four of the following permanently
49 installed, independent life-support systems which meet the National Fire Protection Association standard for
50 recreational vehicles:
- 51 (i) A cooking facility with an on-board fuel source;

- 52 (ii) A potable water supply system that includes at least a sink, a faucet, and a water
53 tank with an exterior service supply connection;
- 54 (iii) A toilet with exterior evacuation;
- 55 (iv) A gas or electric refrigerator;
- 56 (v) A heating or air conditioning system with an on-board power or fuel source
57 separate from the vehicle engine; or
- 58 (vi) A 110-125 volt electric power supply.
- 59 (11) “New recreational trailer” means a travel trailer, fifth-wheel trailer, or folding camping trailer which has
60 not been titled.
- 61 (12) “New recreational vehicle” means a motorhome which has not been titled.
- 62 (13) “New recreational vehicle dealer” means a person, firm, corporation, or business entity who is engaged in
63 the business of buying, selling, or exchanging new recreational vehicles or new recreational trailers.
- 64 (14) “Proprietary part” means any part manufactured by or for, and sold exclusively by, the manufacturer.
- 65 (15) “Supplier” means any person, firm, corporation, or business entity that engages in the manufacturing of
66 new recreational vehicle or new recreational trailer parts, accessories, or components.
- 67 (16) “Transient customer” means a customer who is temporarily traveling through a new recreational vehicle
68 dealer's area of sales responsibility.
- 69 (17) “Travel trailer” means a vehicle, mounted on wheels, designed to provide temporary living quarters for
70 recreational, camping, or travel use. A “travel trailer” must be of such size and weight as to not require a special highway
71 movement permit when towed by a motorized vehicle.
- 72 (18) “Warrantor” means any person, firm, corporation, or business entity, including any manufacturer or
73 supplier that provides a written warranty to the consumer in connection with a new recreational vehicle or new recreational
74 trailer, or parts, accessories, or components thereof. The term “warrantor” does not include service contracts, mechanical
75 or other insurance, or extended warranties sold for separate consideration by a new recreational vehicle dealer or other
76 person not controlled by a manufacturer.
- 77 FURTHER AMEND House Bill No. 352 by striking lines 73 through 87 and making insertions as shown by
78 underlining:
- 79 § 8403. Written agreements and designated territories.

80 (a) A manufacturer or distributor may not sell a new recreational vehicle or new recreational trailer in this
81 State to or through a new recreational vehicle dealer without having first entered into a written and signed manufacturer-
82 dealer agreement with a new recreational vehicle dealer.

83 (b) A manufacturer or distributor shall designate the area of sales responsibility exclusively assigned to a new
84 recreational vehicle dealer in a manufacturer-dealer agreement and may not change the area or contract with another new
85 recreational vehicle dealer for the sale of the same line-make in the designated area during the duration of the agreement,
86 except as provided for in §6311(b) of this title.

87 (c) The area of sales responsibility may not be reviewed or changed without the consent of both parties for 1
88 year after the execution of the manufacturer-dealer agreement.

89 (d) Except as provided in subsection (5) of this section, a new recreational vehicle dealer may not sell a new
90 recreational vehicle or new recreational trailer in this State without having first entered into a manufacturer-dealer
91 agreement with a manufacturer or distributor which has been signed by both parties.

92 (e) A new recreational vehicle dealer may not be prohibited from selling a particular line-make after a
93 manufacturer-dealer agreement has been terminated or not renewed under § 8404 of this chapter, if new recreational
94 vehicles or new recreational trailers of the terminated line-make are not returned or required to be returned to the
95 manufacturer. The new recreational vehicle dealer may continue to sell all-line makes that were subject to the
96 manufacturer-dealer agreement and are currently in stock until those line-makes are no longer in the new recreational
97 vehicle dealer's inventory.

98 FURTHER AMEND House Bill No. 352 by striking lines 88 through 152 and making insertions as shown by
99 underlining:

100 § 8404. Termination, cancellation, nonrenewal, or alteration of a dealership.

101 (a) A manufacturer or distributor, directly or through any authorized officer, agent or employee, may not
102 terminate, cancel, or fail to renew a manufacturer-dealer agreement without good cause. If the manufacturer or distributor
103 with good cause terminates, cancels, or fails to renew the manufacturer-dealer agreement, § 8405 of this chapter does not
104 apply.

105 (b) A manufacturer or distributor has the burden of showing good cause for terminating, canceling, or failing
106 to renew a manufacturer-dealer agreement with a new recreational vehicle dealer. For purposes of determining whether
107 there is good cause for the proposed action, any of the following factors may be considered:

108 (1) The extent of the affected new recreational vehicle dealer's penetration in the area of sales
109 responsibility.

- 110 (2) The nature and extent of the new recreational vehicle dealer's investment in its business.
- 111 (3) The adequacy of the new recreational vehicle dealer's service facilities, equipment, parts,
112 supplies, and personnel.
- 113 (4) The effect of the proposed action on the community.
- 114 (5) The extent and quality of the new recreational vehicle dealer's service under new recreational
115 vehicle or new recreational trailer warranties.
- 116 (6) The new recreational vehicle dealer's failure to follow agreed-upon procedures or standards
117 related to the overall operation of the dealership.
- 118 (7) The new recreational vehicle dealer's performance under the terms of its manufacturer-dealer
119 agreement.
- 120 (c) Except as otherwise provided in this chapter, a manufacturer or distributor shall provide a new
121 recreational vehicle dealer with at least 120 days prior written notice of termination, cancellation, or nonrenewal of the
122 manufacturer-dealer agreement if the new recreational vehicle dealer is being terminated, cancelled, or nonrenewed for
123 good cause.
- 124 (1) The notice must state all reasons for the proposed termination, cancellation, or nonrenewal, and
125 must further state that if, within 30 days following receipt of the notice, the new recreational vehicle dealer provides
126 to the manufacturer or distributor a written notice of intent to cure all claimed deficiencies, the new recreational
127 vehicle dealer will then be entitled to the full 120-day notice period, commencing from the new recreational vehicle
128 dealer's receipt of the manufacturer's or distributor's original notice to rectify the deficiencies. If the deficiencies are
129 rectified within the 120-day notice period, the manufacturer's or distributor's notice is voided. If the new recreational
130 vehicle dealer fails to provide the notice of intent to cure the deficiencies in the prescribed 30-day time period, the
131 termination, cancellation, or nonrenewal takes effect 30 days after the new recreational vehicle dealer's receipt of the
132 manufacturer's or distributor's original notice.
- 133 (2) The notice period may be reduced to 30 days if the manufacturer's or distributor's grounds for
134 termination, cancellation, or nonrenewal are due to any of the following good cause factors:
- 135 a. A new recreational vehicle dealer being convicted of, or entering a plea of *nolo*
136 *contendere* to, a felony;
- 137 b. The abandonment or closing of the business operations of the new recreational vehicle
138 dealer for 10 consecutive business days unless the closing is due to an act of God, strike, labor difficulty,
139 or other cause over which the new recreational vehicle dealer has no control;

140 c. A significant misrepresentation by a new recreational vehicle dealer that materially
141 affects the business relationship between the new recreational vehicle dealer and the manufacturer or
142 distributor;

143 d. A suspension or revocation of a new recreational vehicle dealer's license, or refusal to
144 renew the new recreational vehicle dealer's license, by the Division of Motor Vehicles;

145 e. A material violation of this chapter which the new recreational vehicle dealer does not
146 cure within 30 days after written notice by the manufacturer or distributor; or

147 f. A declaration by a new recreational vehicle dealer of bankruptcy, insolvency, or the
148 occurrence of an assignment for the benefit of creditors or bankruptcy;

149 (d) A new recreational vehicle dealer may terminate, cancel, or not renew its manufacturer-dealer agreement
150 with a manufacturer or distributor with or without good cause by giving 30-days written notice. In the case of a new
151 recreational vehicle dealer terminating, cancelling, or failing to renew a manufacturer-dealer agreement for good cause, the
152 notice must state all the reasons for the proposed termination, cancellation, or nonrenewal, and must further state that if,
153 within 30 days following receipt of the notice, the manufacturer or distributor provides to the new recreational vehicle
154 dealer a written notice of intent to cure all claimed deficiencies, the manufacturer or distributor will then be entitled to a 90-
155 day notice period commencing from the manufacturer's receipt of the new recreational vehicle dealer's original notice. If
156 the deficiencies are rectified within the 90-day notice period, the new recreational vehicle dealer's notice is voided. If the
157 manufacturer or distributor fails to provide the notice of intent to cure the deficiencies in the prescribed 30-day time period,
158 the termination, cancellation, or nonrenewal takes effect 30 days after the manufacturer's or distributor's receipt of the new
159 recreational vehicle dealer's original notice, unless the parties agree otherwise in writing.

160 (e) If the new recreational vehicle dealer terminates, cancels or fails to renew a manufacturer-dealer
161 agreement without good cause, the provisions of § 8405 of this chapter do not apply. If the new recreational vehicle dealer
162 terminates, cancels, or fails to renew the manufacturer-dealer agreement with good cause, § 8405 of this chapter applies.
163 The new recreational vehicle dealer has the burden of showing good cause. Any of the following items are considered
164 "good cause" for a proposed termination, cancellation, or nonrenewal action by the new recreational vehicle dealer:

165 (1) A manufacturer or distributor being convicted of, or entering a plea of *nolo contendere* to, a
166 felony.

167 (2) The business operations of a manufacturer or distributor have been abandoned or closed for 10
168 consecutive business days, unless the closing is due to an act of God, strike, labor difficulty, or other cause over
169 which the manufacturer has no control.

170 (3) A significant misrepresentation by a manufacturer or distributor that materially affects the
171 business relationship between the manufacturer and the new recreational vehicle dealer.

172 (4) A material violation of this chapter which the manufacturer or distributor does not cure within
173 30 days after written notice by the new recreational vehicle dealer.

174 (5) A declaration by a manufacturer or distributor of bankruptcy, insolvency, or the occurrence of an
175 assignment for the benefit of creditors or bankruptcy.

176 FURTHER AMEND House Bill No. 352 by striking lines 155 through 177 by adding a new section as shown by
177 underlining:

178 § 8405. Repurchase of inventory.

179 (a) If a new recreational vehicle dealer terminates, cancels, or fails to renew a manufacturer-dealer agreement
180 for good cause as defined in § 8404(e) of this chapter and the manufacturer fails to cure the claimed deficiencies as
181 provided in § 8404(d) of this chapter, at the election of the new recreational vehicle dealer and within 45 days after
182 termination, cancellation, or nonrenewal, the manufacturer shall, repurchase:

183 (1) All new, untitled recreational vehicles and new recreational trailers that were acquired from the
184 manufacturer or distributor within 12 months before the effective date of the notice of termination, cancellation, or
185 nonrenewal that have not been used, except for demonstration purposes, and that have not been altered or
186 damaged, at 100 percent of the net invoice cost, including transportation, less applicable rebates and discounts to
187 the new recreational vehicle dealer. If any of the vehicles repurchased pursuant to this subdivision are damaged,
188 but do not trigger a consumer disclosure requirement, the amount due the new recreational vehicle dealer must be
189 reduced by the cost to repair the vehicle. Damage prior to delivery to the new recreational vehicle dealer that is
190 disclosed at the time of delivery will not disqualify repurchase under this provision.

191 (2) All undamaged accessories and proprietary parts sold to a new recreational vehicle dealer for
192 resale within the 12 months prior to termination, cancellation, or nonrenewal, if accompanied by the original
193 invoice, at 105 percent of the original net price paid to the manufacturer or distributor to compensate the new
194 recreational vehicle dealer for handling, packing, and shipping the parts; and

195 (3) Any properly functioning diagnostic equipment, special tools, current signage, and other
196 equipment and machinery at 100 percent of the new recreational vehicle dealer's net cost plus freight, destination,
197 delivery, and distribution charges and sales taxes, if any, if the items were purchased by the new recreational
198 vehicle dealer within 5 years before termination, cancellation, or nonrenewal upon the manufacturer's or

199 distributor's request, and can no longer be used in the normal course of the new recreational vehicle dealer's
200 ongoing business.

201 (b) The manufacturer or distributor shall pay the new recreational vehicle dealer within 30 days after receipt
202 of the items returned pursuant to this section.

203 FURTHER AMEND House Bill No. 352 by striking lines 178 through 208 and making insertions as shown by
204 underlining:

205 § 8406. Transfer of dealership; family succession.

206 (a) If a new recreational vehicle dealer desires to make a change in ownership by the sale of the business
207 assets, stock transfer, or otherwise, the new recreational vehicle dealer shall give the manufacturer or distributor written
208 notice at least 15 business days before the closing, along with all supporting documentation that may be reasonably
209 required by the manufacturer or distributor to determine if an objection to the sale may be made. In the absence of a breach
210 by the selling new recreational vehicle dealer of its manufacturer-dealer agreement or a provision of this chapter, the
211 manufacturer or distributor may not object to the proposed change in ownership unless the prospective transferee:

212 (1) Has previously been terminated by the manufacturer for breach of its manufacturer-dealer
213 agreement;

214 (2) Has been convicted of a felony or any crime of fraud, deceit, or moral turpitude;

215 (3) Lacks a license required by law;

216 (4) Does not have an active line of credit sufficient to purchase a manufacturer's or distributor's
217 product; or

218 (5) Has undergone in the last 10 years bankruptcy, insolvency, a general assignment for the benefit
219 of creditors, or the appointment of a receiver, trustee, or conservator to take possession of the transferee's business
220 or property.

221 (b) If the manufacturer or distributor objects to a proposed change of ownership pursuant to subsection (a) of
222 this section, the manufacturer or distributor shall give written notice of its reasons to the new recreational vehicle dealer
223 within 10 business days after receipt of the new recreational vehicle dealer's notification and all supporting documentation.
224 The manufacturer or distributor has the burden of proof with regard to its objection. If the manufacturer or distributor does
225 not give timely notice of its objection, the change of ownership is deemed approved.

226 (c) It is unlawful for a manufacturer or distributor to fail to provide a new recreational vehicle dealer with an
227 opportunity to designate, in writing, a family member as a successor to the dealership in the event of the death, incapacity,
228 or retirement of the new recreational vehicle dealer. It is unlawful to prevent or refuse to honor the succession to a

229 dealership by a family member of the deceased, incapacitated, or retired new recreational vehicle dealer, unless the
230 manufacturer or distributor has provided to the new recreational vehicle dealer written notice of its objections within 10
231 days after receipt of the new recreational vehicle dealer's modification of the new recreational vehicle dealer's succession
232 plan. In the absence of a breach of the manufacturer-dealer agreement, the manufacturer or distributor may object to the
233 succession for the following reasons only:

- 234 (1) Conviction of the successor of a felony or any crime of fraud, deceit, or moral turpitude;
235 (2) Bankruptcy or insolvency of the successor during the past 10 years;
236 (3) Prior termination by the manufacturer or distributor of the successor for breach of a manufacturer-
237 dealer agreement;

238 FURTHER AMEND House Bill No. 352 by striking lines 216 through 261 and making insertions as shown by
239 underlining:

240 § 8407. Warranty obligations.

241 (a) A warrantor shall:

- 242 (1) Specify in writing to each of its new recreational vehicle dealers all new recreational vehicle
243 dealer obligations, if any, for preparation, delivery, and warranty service on its products;
244 (2) Compensate the new recreational vehicle dealer for performing warranty service required of the
245 new recreational vehicle dealer by the warrantor; and
246 (3) Provide the new recreational vehicle dealer with a schedule of compensation to be paid and the
247 time allowances for the performance of any work and service. The schedule of compensation must include
248 reasonable compensation for diagnostic work as well as for warranty labor.

249 (b) Time allowances for the diagnosis and performance of warranty labor must be reasonable for the work to
250 be performed. In the determination of what constitutes reasonable compensation under this section, the principal factors to
251 be given consideration are the actual wage rates being paid by the new recreational vehicle dealer, and the actual retail labor
252 rate being charged by the new recreational vehicle dealers in the community in which the new recreational vehicle dealer is
253 doing business. The compensation of a new recreational vehicle dealer for warranty labor may not be less than the lowest
254 retail labor rates actually charged by the new recreational vehicle dealer for like nonwarranty labor, as long as such rates are
255 reasonable.

256 (c) A warrantor shall reimburse a new recreational vehicle dealer for warranty parts at actual wholesale cost
257 plus a minimum 30-percent handling charge and the cost, if any, of freight to return warranty parts to the warrantor.

258 (d) Warranty audits of new recreational vehicle dealer records may be conducted by the warrantor on a
259 reasonable basis, and new recreational vehicle dealer claims for warranty compensation may not be denied except for
260 cause, such as performance of nonwarranty repairs, material noncompliance with the warrantor's published policies and
261 procedures, lack of material documentation, fraud, or misrepresentation.

262 (e) A new recreational vehicle dealer shall submit warranty claims within 30 days after completing work.

263 (f) A new recreational vehicle dealer shall immediately notify a warrantor, verbally or in writing, if the new
264 recreational vehicle dealer is unable to perform any warranty repairs within 10 days of receipt of verbal or written
265 complaints from a consumer.

266 (g) A warrantor shall disapprove warranty claims in writing within 30 days after the work is completed and
267 submitted by the new recreational vehicle dealer in the manner and form prescribed by the warrantor. Claims not specifically
268 disapproved in writing within 30 days are construed to be approved and must be paid within 45 days after the work is
269 completed and the claim submitted.

270 (h) It is a violation of this chapter for a warrantor to:

271 (1) Fail to perform any of its warranty obligations with respect to its warranted products;

272 (2) Fail to include, in written notices of factory campaigns to new recreational vehicle or new
273 recreational trailer owners and new recreational vehicle dealers, the expected date by which necessary parts and
274 equipment, including tires and chassis or chassis parts, will be available to new recreational vehicle dealers to
275 perform the campaign work. A warrantor may ship parts to a new recreational vehicle dealer to effect the
276 campaign work, and, if the parts are in excess of the new recreational vehicle dealer's requirements, the new
277 recreational vehicle dealer may return unused parts to the warrantor for credit after completion of the campaign;

278 (3) Fail to compensate any of its new recreational vehicle dealers for authorized repairs effected by
279 the new recreational vehicle dealer of merchandise damaged in manufacture or transit to the new recreational
280 vehicle dealer, if the carrier is selected by the warrantor, factory branch, distributor, or distributor branch;

281 (4) Fail to compensate any of its new recreational vehicle dealers in accordance with the schedule of
282 compensation provided to the new recreational vehicle dealer pursuant to this section, if performed in a timely and
283 competent manner;

284 (5) Intentionally misrepresent in any way to purchasers of new recreational vehicles or new
285 recreational trailers that warranties with respect to the manufacture, performance, or design of the vehicle are
286 made by the new recreational vehicle dealer as warrantor or co-warrantor; or

287 (6) Require a new recreational vehicle dealer to make warranties to customers in any manner related
288 to the manufacture of the recreational vehicle or new recreational trailer.

289 (i) It is a violation of this chapter for a new recreational vehicle dealer to:

290 FURTHER AMEND House Bill No. 352 by striking lines 274 through 287 and making insertions as shown by
291 underlining:

292 § 8408. Indemnification.

293 Notwithstanding the terms of any manufacturer-dealer agreement, it is a violation of this chapter for:

294 (1) A warrantor to fail to indemnify and hold harmless its new recreational vehicle dealer against
295 any losses or damages to the extent that the losses or damages are caused by the negligence or willful misconduct
296 of the warrantor. A new recreational vehicle dealer may not be denied indemnification for failing to discover,
297 disclose, or remedy a defect in the design or manufacturing of a new recreational vehicle or new recreational
298 trailer. A new recreational vehicle dealer may be denied indemnification if the new recreational vehicle dealer
299 fails to remedy a known and announced defect in accordance with the written instructions of a warrantor for whom
300 the new recreational vehicle dealer is obligated to perform warranty service. A new recreational vehicle dealer
301 shall provide to a warrantor a copy of any pending law suit in which allegations are made that are covered by the
302 provisions of this subsection within 10 days after receiving such suit. Notwithstanding anything to the contrary,
303 this paragraph shall continue to apply even after the new recreational vehicle or new recreational trailer is titled.

304 (2) A new recreational vehicle dealer to fail to indemnify and hold harmless its warrantor against
305 any losses or damages to the extent that the losses or damages are caused by the negligence or willful misconduct
306 of the new recreational vehicle dealer. A warrantor shall provide to a new recreational vehicle dealer a copy of any
307 pending law suit or similar proceeding in which allegations are made that come within this the provisions of
308 subsection within 10 days after receiving such suit. Notwithstanding anything to the contrary, this paragraph shall
309 continue to apply even after the new recreational vehicle or new recreational trailer is titled.

310 FURTHER AMEND House Bill No. 352 by striking lines 288 through 305 and making insertions as shown by
311 underlining:

312 § 8409. Inspection and rejection by the dealer.

313 (a) If a new recreational vehicle or new recreational trailer is damaged prior to transit to a new recreational
314 vehicle dealer or is damaged in transit to the new recreational vehicle dealer when the carrier or means of transportation has
315 been selected by the manufacturer or distributor, the new recreational vehicle dealer shall notify the manufacturer or
316 distributor of the damage within the timeframe specified in the manufacturer-dealer agreement and:

317 (1) Shall request from the manufacturer or distributor authorization to replace the components, parts,
318 and accessories damaged or to otherwise correct the damage; or

319 (2) Shall reject the vehicle within the timeframe set forth in subsection (d) of this section.

320 (b) If a manufacturer or distributor refuses or fails to authorize repair of damage pursuant to subsection (a) of
321 this section within ten days after receipt of notification, or if the new recreational vehicle dealer rejects the new recreational
322 vehicle or new recreational trailer because of damage, ownership of the new recreational vehicle or new recreational trailer
323 reverts to the manufacturer or distributor.

324 (c) A new recreational vehicle dealer shall exercise due care while the damaged new recreational vehicle or
325 new recreational trailer is in the new recreational vehicle dealer's custody, but the new recreational vehicle dealer has no
326 other obligations, financial or otherwise, with respect to the vehicle.

327 (d) The timeframe for inspection and rejection of a new recreational vehicle or new recreational trailer by a
328 new recreational vehicle dealer must be part of the manufacturer-dealer agreement and may not be less than 2 business days
329 after the physical delivery of the vehicle.

330 (e) A new recreational vehicle or new recreational trailer that has, at the time of delivery to a new
331 recreational vehicle dealer, an unreasonable amount of miles on its odometer as determined by the new recreational vehicle
332 dealer, may be subject to rejection by the new recreational vehicle dealer and reversion of the vehicle to the manufacturer or
333 distributor. In no instance may a new recreational vehicle dealer deem an amount less than the distance between the new
334 recreational vehicle dealer and the manufacturer's factory or a distributor's point of distribution, plus 100 miles, as
335 unreasonable.

336 FURTHER AMEND House Bill No. 352 by striking lines 306 through 349 and making insertions as shown by
337 underlining:

338 § 8410. Coercion of new recreational vehicle dealer prohibited.

339 (a) A manufacturer or distributor may not coerce or attempt to coerce a new recreational vehicle dealer to:

340 (1) Purchase a product that the new recreational vehicle dealer did not order;

341 (2) Enter into an agreement with the manufacturer or distributor; or

342 (3) Enter into an agreement that requires the new recreational vehicle dealer to submit its disputes to
343 binding arbitration or otherwise waive rights or responsibilities provided under this chapter.

344 (b) As used in this section, the term "coerce" includes, but is not limited to, threatening to terminate, cancel,
345 or not renew a manufacturer-dealer agreement without good cause; or threatening to withhold product lines that the new

346 recreational vehicle dealer is entitled to purchase pursuant to the manufacturer-dealer agreement; or threatening to delay
347 product delivery as an inducement to amending the manufacturer-dealer agreement.

348 § 8411. Mediation

349 (a) A new recreational vehicle dealer, manufacturer, distributor, or warrantor injured by another party's
350 violation of this chapter may bring a civil action to recover actual damages. The court may award reasonable attorney's fees
351 and costs to the prevailing party in such an action. Venue for any civil action authorized by this section is in the county in
352 which the new recreational vehicle dealer's business is located. In an action involving more than one new recreational
353 vehicle dealer, venue may be in any county in which any new recreational vehicle dealer that is a party to the action is
354 located.

355 (b) Prior to bringing suit under this chapter, the plaintiff shall serve upon the offending party a written
356 demand for mediation. Mediation must take place in accordance with this section; Title 6, Chapter 77 does not apply.

357 (1) In the case of a manufacturer, distributor, or new recreational vehicle dealer, a demand for
358 mediation must be served upon the other party via certified mail at the address stated within the manufacturer-
359 dealer agreement between the parties. In the case of a different warrantor, the notice must be sent via certified
360 mail to the address identified in the warrantor's warranty, with a copy to the manufacturer or distributor.

361 (2) A demand for mediation must contain a brief statement of the dispute and the relief sought by
362 the party filing the demand.

363 (3) Within 20 days after the date on which a demand for mediation is served, the parties shall
364 mutually select an independent certified mediator and meet with that mediator for the purpose of attempting to
365 resolve the dispute. The meeting place must be in this State in a location selected by the mediator. The mediator
366 may extend the date of the meeting for good cause shown by either party or upon stipulation by both parties.

367 (4) The service of a demand for mediation under this section tolls the time for the filing of a
368 complaint, petition, protest, or other action under this chapter until representatives of both parties have met with a
369 mutually selected mediator for the purpose of attempting to resolve the dispute. If a complaint, petition, protest, or
370 other action is filed before meeting with the mediator, the court shall enter an order suspending the proceeding or
371 action until mediation has occurred, and, upon written stipulation by all parties to the proceeding or action that
372 they wish to continue to mediate under this section, the court shall enter an order suspending the proceeding or
373 action for as long a period as the court considers appropriate.

374 (5) The parties to the mediation shall bear their own costs for attorney's fees and divide equally the
375 cost of the mediator.

376 (c) In addition to the remedies provided in this section and notwithstanding the existence of any additional
377 remedy at law, a manufacturer, distributor, warrantor, or new recreational vehicle dealer may make application to a court of
378 competent jurisdiction for the grant, upon a hearing and for cause shown, of a temporary or permanent injunction, or both,
379 restraining any person from acting as a new recreational vehicle dealer without being properly licensed, from violating or
380 continuing to violate any of the provisions of this chapter, or from failing or refusing to comply with the requirements of
381 this chapter. An injunction must be issued without bond. A single act in violation of the provisions of this chapter is
382 sufficient for a court to authorize the issuance of an injunction.

383 FURTHER AMEND House Bill No. 352 after line 349 and before line 350 by adding a new section as shown by
384 underlining:

385 § 8412. Regulations.

386 The Division of Motor Vehicles shall have the authority to promulgate and adopt rules and regulations necessary
387 to carry out the provisions of this chapter.

388 FURTHER AMEND House Bill No. 352 by striking lines 354 through 382 in their entirety and by making
389 insertions as shown by underlining:

390 (7) “Franchised Motor Vehicle dealer” means a dealer in new vehicles that has a franchise agreement with a

391 FURTHER AMEND House Bill No. 352 by striking lines 435 through 516 in their entirety.

392 FURTHER AMEND House Bill No. 352 by striking lines 544 through 547 in their entirety.

393 FURTHER AMEND House Bill No. 352 by striking lines 637 through 646 in their entirety.

394 FURTHER AMEND House Bill No. 352 by striking line 650 in its entirety and making insertions as shown by
395 underlining:

396 Section 5. Effective date. The provisions of this chapter only apply to manufacturer-dealer agreements entered
397 into on or after July 1, 2013.

SYNOPSIS

This amendment removes the new fee being added in Section 3 of the bill, relables the chapter to reference franchising practices instead of manufacturer-dealer agreements, deletes certain stylistic changes, and removes a temporary license requirement.