

Regular Session, 2013

SENATE BILL NO. 136

BY SENATOR CHABERT

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

MOTOR VEHICLES. Provides relative to motor vehicles. (8/1/13)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17

AN ACT

To amend and reenact R.S. 32:1252(8) and (23) through (70), to enact R.S. 32:1252(71), 1261(A)(1)(x), 1262(B)(8), and 1283, and to repeal R.S. 32:1254(D)(6), relative to motor vehicles; to provide for definitions; to provide relative to manufacturers and dealers; to provide relative to sales and service satisfaction surveys and unauthorized acts; to prohibit certain rebate charge backs; to provide for choice of laws with regards to a vehicle protection product warranty; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 32:1252(8) and (23) through (70) are hereby amended and reenacted and R.S. 32:1252(71), 1261(A)(1)(x), 1262(B)(8), and 1283 are hereby enacted to read as follows:

§1252. Definitions

The following words, terms, and phrases, when used in this Chapter, shall have the meanings respectively ascribed to them in this Section, except where the context clearly indicates a different meaning:

* * *

(8) "Converter" or "secondary manufacturer" means a person who prior to the

1 retail sale of motor vehicles **or trailers**, assembles, installs, or affixes a body, cab,
2 or special equipment to a chassis, or who substantially adds, subtracts from, or
3 modifies a previously assembled or manufactured motor vehicle **or trailers**.

4 * * *

5 **(23) "Low speed vehicle" means a four-wheeled, electric powered vehicle**
6 **with a maximum speed of not less than twenty miles per hour but not more than**
7 **twenty-five miles per hour and that possesses minimum motor vehicle**
8 **equipment appropriate for vehicle safety as required by 49 C.F.R. 571.500.**

9 ~~(23)~~ **(24)** "Manufacturer" means any person, resident or nonresident, who
10 fabricates, manufactures, or assembles motor vehicles, recreational products, or new,
11 remanufactured, reconditioned, or rebuilt motor vehicle or marine motors.

12 ~~(24)~~ **(25)** "Marine dealer" means any person who holds a bona fide contract
13 or franchise with a manufacturer or distributor of marine products, except for a
14 person engaged in the business of renting or selling new or used watercraft or boats
15 adapted to be powered only by an occupant's energy, and who holds a license as a
16 marine dealer under the provisions of this Chapter.

17 ~~(25)~~ **(26)** "Marine motor" means a motor that is a component of a marine
18 product that is sold separately from a boat when delivered to the marine dealer by the
19 distributor or manufacturer.

20 ~~(26)~~ **(27)** "Marine product" means a new or used watercraft, boat, or motor
21 designed for recreational or commercial use on water and a boat or watercraft trailer.
22 The term also includes an outboard motor or a boat with an inboard/outboard motor
23 attached to it. The term shall not mean a watercraft designed for use primarily for
24 commercial purposes or new or used watercraft or boats adapted to be powered only
25 by occupant's energy.

26 ~~(27)~~ **(28)** "Marine product line" means a particular model of a marine product
27 designed for recreational or commercial use on water.

28 ~~(28)~~ **(29)** "Marine product salesman" means any natural person employed by
29 a licensee of the commission whose duties include the selling, leasing, or offering

1 for sale or lease, financing or insuring marine products on behalf of said licensee and
2 who holds a motor vehicle salesman license under the provisions of this Chapter.

3 ~~(29)~~ **(30)** "Motorcycle" means a motor vehicle having a seat or saddle for the
4 use of the rider and designed to travel on not more than three wheels in contact with
5 the ground but excluding a tractor and electric-powered scooters not required to be
6 registered.

7 ~~(30)~~ **(31)** "Motorcycle or all-terrain vehicle dealer" means any person who,
8 for a commission or with intent to make a profit or gain of money or other thing of
9 value, buys, sells, brokers, exchanges, auctions, offers, or attempts to negotiate a sale
10 or exchange of an interest in motorcycles or all-terrain vehicles and who is engaged
11 wholly or in part in the business of buying and selling motorcycles or all-terrain
12 vehicles in the state of Louisiana and who holds a license as a recreational products
13 dealer under the provisions of this Chapter.

14 (a) The term shall also include anyone not licensed under Chapter 6 of Title
15 32 of the Louisiana Revised Statutes of 1950, who sells motorcycles or all-terrain
16 vehicles and who rents on a daily basis motorcycles or all-terrain vehicles, not of the
17 current year or immediate prior year models, that have been titled previously to an
18 ultimate purchaser.

19 (b) "Motorcycle or all-terrain vehicle dealer" shall not include any of the
20 following:

21 (i) Receivers, trustees, administrators, executors, guardians, or other persons
22 appointed by or acting under the judgment or order of any court.

23 (ii) Public officers while performing their official duties.

24 (iii) Employees of motorcycle or all-terrain vehicle dealers when engaged in
25 the specific performance of their duties as such employees.

26 (iv) Mortgagees or secured parties as to sales of motorcycles or all-terrain
27 vehicles constituting collateral on a mortgage or security agreement.

28 (v) Insurance companies.

29 (vi) Auctioneers or auction houses who are not engaged in the auction of

1 motorcycles or all-terrain vehicles as the principal part of their business, including
2 but not limited to the following auctions: estate auctions, bankruptcy auctions, farm
3 equipment auctions, or government auctions.

4 ~~(31)~~ **(32)** "Motorcycle or all-terrain vehicle salesman" means any natural
5 person employed by a licensee of the commission whose duties include the selling,
6 leasing, or offering for sale or lease, financing or insuring motorcycle or all-terrain
7 vehicles on behalf of said licensee and who holds a motor vehicle salesman license
8 under the provisions of this Chapter.

9 ~~(32)~~ **(33)** "Motor home" means a motor vehicle designed as an integral unit
10 to be used as a conveyance upon the public streets and highways and for use as a
11 temporary or recreational dwelling and having at least four of the following
12 permanently installed systems which meet American National Standards Institute
13 and National Fire Protection Association standards in effect as of the date of
14 manufacture, two of which shall be systems specified below in Subparagraph (a), (d),
15 or (e) of this Paragraph:

16 (a) Cooking facilities.

17 (b) Ice box or mechanical refrigerator.

18 (c) Potable water supply including plumbing and a sink with faucet either
19 self-contained or with connections for an external source, or both.

20 (d) Self-contained toilet or a toilet connected to a plumbing system with
21 connection for external water disposal, or both.

22 (e) Heating or air conditioning system, or both, separate from the vehicle
23 engine or the vehicle engine electrical system.

24 (f) A one hundred ten/one hundred fifteen volt alternating current electrical
25 system either with its own power supply or with a connection for an external source,
26 or both, or a liquefied petroleum system and supply.

27 ~~(33)~~ **(34)** "Motor vehicle" means any motor driven car, van, or truck required
28 to be registered which is used, or is designed to be used, for the transporting of
29 passengers or goods for public, private, commercial, or for hire purposes.

1 ~~(34)(a)~~ **(35)(a)** "Motor vehicle dealer" means any person, not excluded by
2 Subparagraph (b) of this Paragraph who holds a bona fide franchise in effect with a
3 manufacturer or distributor of new motor vehicles, and a license under the provisions
4 of this Chapter or a subsidiary of any such entity. Such duly franchised and licensed
5 motor vehicle dealers shall be the sole and only persons entitled to sell, publicly
6 solicit, and advertise the sale of new motor vehicles as such.

7 (b) The term "motor vehicle dealer" does not include any of the following:

8 (i) Receivers, trustees, administrators, executors, guardians, or other persons
9 appointed by or acting under judgment or order of any court.

10 (ii) Public officers while performing or in operation of their duties.

11 (iii) Employees of persons enumerated in Item (i) of this Subparagraph when
12 engaged in the specific performance of their duties as such employees.

13 (iv) Financial institutions engaged in the sale of motor vehicles for the
14 collection of debts secured thereby.

15 ~~(35)(a)~~ **(36)(a)** "Motor vehicle lessor" shall mean any person, not excluded
16 by Subparagraph (b) of this Paragraph, engaged in the motor vehicle, recreational
17 products, or specialty vehicle leasing or rental business. It shall also include a
18 subsidiary of any such entity.

19 (b) The term "motor vehicle lessor" does not include any of the following:

20 (i) Receivers, trustees, administrators, executors, guardians, or other persons
21 appointed by or acting under judgment or order of any court.

22 (ii) Public officers while performing or in the operation of their duties.

23 (iii) Employees of persons, corporations, or associations enumerated in Item
24 (i) of this Subparagraph when engaged in the specific performance of their duties as
25 such employees.

26 (iv) Financial institutions engaged in the leasing of motor vehicles,
27 recreational products, or specialty vehicles.

28 (c) Any motor vehicle lessor who rents on a daily basis motor vehicles,
29 recreational products, or specialty vehicles not of the current year or immediate prior

1 year models that have been titled previously to an ultimate purchaser, and who is
2 otherwise not required to obtain a license under this Chapter, shall be subject to the
3 regulation of the Louisiana Used Motor Vehicle Commission.

4 ~~(36)~~ **(37)** "Motor vehicle lessor agent" means any natural person, other than
5 a daily rental person, employed by a motor vehicle lessor licensed by the commission
6 whose duties include the leasing, renting or offering for lease or rent motor vehicles,
7 recreational products, or specialty vehicles on behalf of said motor vehicle lessor.

8 ~~(37)~~ **(38)** "Motor vehicle lessor franchisor" means any person who grants a
9 franchise to any person granting the right to lease or rent a motor vehicle,
10 recreational product, or specialty vehicle under its trade name, trademark, or service
11 mark or to sell used motor vehicles, recreational products, or specialty vehicles
12 formerly a part of its rental fleet.

13 ~~(38)~~ **(39)** "Motor vehicle salesman" means any natural person employed by
14 a licensee of the commission whose duties include the selling, leasing, or offering
15 for sale or lease, financing or insuring motor vehicles, recreational products, or
16 specialty vehicles on behalf of said licensee.

17 ~~(39)~~ **(40)** "New marine product" means a marine product, the legal title to
18 which has never been transferred by a manufacturer, distributor, or dealer to an
19 ultimate purchaser.

20 ~~(40)~~ **(41)** "New motorcycle or all-terrain vehicle" means a motorcycle or all-
21 terrain vehicle, the legal title to which has never been transferred by a manufacturer,
22 distributor, or dealer to an ultimate purchaser.

23 ~~(41)~~ **(42)** "New motor vehicle", "new recreational product", or "new specialty
24 vehicle" means a motor vehicle, recreational product, or specialty vehicle, the legal
25 title to which has never been transferred by a manufacturer, distributor, or dealer to
26 an ultimate purchaser.

27 ~~(42)~~ **(43)** "New recreational vehicle" means a recreational vehicle, the legal
28 title to which has never been transferred by a manufacturer, distributor, or dealer to
29 an ultimate purchaser.

1 ~~(43)~~ **(44)** "Person" shall mean any natural or juridical person, firm,
2 association, corporation, trust, partnership, limited liability partnership, professional
3 liability corporation, or limited liability company or any other legal entity.

4 ~~(44)~~ **(45)** "Recreational products" means new and unused motorcycles, all-
5 terrain vehicles, marine products, recreational vehicles, and trailers as defined in this
6 Chapter.

7 ~~(45)~~ **(46)** "Recreational products dealer" means any person who, for a
8 commission or with intent to make a profit or gain of money or other thing of value,
9 buys, sells, brokers, exchanges, auctions, offers, or attempts to negotiate a sale or
10 exchange of an interest in recreational products and who is engaged wholly or in part
11 in the business of buying and selling recreational products in the state of Louisiana.

12 (a) The term shall also include anyone not licensed under Chapter 6 of Title
13 32 of the Louisiana Revised Statutes of 1950, who sells recreational products and
14 who rents on a daily basis recreational products, not of the current year or immediate
15 prior year models, that have been titled previously to an ultimate purchaser.

16 (b) "Recreational products dealer" shall not include any of the following:

17 (i) Receivers, trustees, administrators, executors, guardians, or other persons
18 appointed by or acting under the judgment or order of any court.

19 (ii) Public officers while performing their official duties.

20 (iii) Employees of recreational products dealers when engaged in the specific
21 performance of their duties as such employees.

22 (iv) Mortgagees or secured parties as to sales of recreational products
23 constituting collateral on a mortgage or security agreement.

24 (v) Insurance companies.

25 (vi) Auctioneers or auction houses who are not engaged in the auction of
26 recreational products as the principal part of their business, including but not limited
27 to the following auctions: estate auctions, bankruptcy auctions, farm equipment
28 auctions, or government auctions.

29 ~~(46)~~ **(47)** "Recreational vehicle" means a motorized or towable vehicle that

1 combines transportation and temporary living quarters for travel, recreation, and
2 camping. For purposes of this Chapter, a "recreational vehicle" includes new and
3 used motor homes, new and used travel trailers, new and used fifth-wheel travel
4 trailers, new and used folding camper trailers, and slide-in truck campers.

5 ~~(47)~~ **(48)** "Recreational vehicle dealer" means any person who, for a
6 commission or with intent to make a profit or gain of money or other thing of value,
7 buys, sells, brokers, exchanges, auctions, offers, or attempts to negotiate a sale or
8 exchange of an interest in recreational vehicles and who is engaged wholly or in part
9 in the business of buying and selling recreational vehicles in the state of Louisiana
10 and who holds a license as a recreational products dealer under the provisions of this
11 Chapter.

12 (a) The term shall also include anyone not licensed under Chapter 6 of Title
13 32 of the Louisiana Revised Statutes of 1950, who sells recreational vehicles and
14 who rents on a daily basis recreational vehicles, not of the current year or immediate
15 prior year models, that have been titled previously to an ultimate purchaser.

16 (b) "Recreational vehicle dealer" shall not include any of the following:

17 (i) Receivers, trustees, administrators, executors, guardians, or other persons
18 appointed by or acting under the judgment or order of any court.

19 (ii) Public officers while performing their official duties.

20 (iii) Employees of recreational vehicle dealers when engaged in the specific
21 performance of their duties as such employees.

22 (iv) Mortgagees or secured parties as to sales of recreational vehicles
23 constituting collateral on a mortgage or security agreement.

24 (v) Insurance companies.

25 (vi) Auctioneers or auction houses who are not engaged in the auction of
26 recreational vehicles as the principal part of their business, including but not limited
27 to the following auctions: estate auctions, bankruptcy auctions, farm equipment
28 auctions, or government auctions.

29 ~~(48)~~ **(49)** "Recreational vehicle salesman" means any natural person

1 employed by a licensee of the commission whose duties include the selling, leasing,
2 or offering for sale or lease, financing or insuring recreational vehicles on behalf of
3 said licensee and who holds a motor vehicle salesman license under the provisions
4 of this Chapter.

5 ~~(49)~~ **(50)** "Retail sale" or "sale at retail" means the act or attempted act of
6 selling, bartering, exchanging, or otherwise disposing of a motor vehicle, recreational
7 product, or specialty vehicle to an ultimate purchaser for use as a consumer.

8 ~~(50)~~ **(51)** "Satellite warranty and repair center" means a motor vehicle repair
9 facility, other than at a motor vehicle dealer franchised location, approved by a
10 manufacturer or distributor and authorized to perform warranty and other repairs on
11 motor vehicles.

12 ~~(51)~~ **(52)** "Selling agreement" means any written contract or agreement
13 between a marine dealer and a manufacturer, or its distributor or factory branch, by
14 which the marine dealer is authorized to engage in the business of selling or leasing
15 the specific makes, models, or classifications of marine products marketed or leased
16 by the manufacturer, and designated in the selling agreement or any addendum
17 thereto. For the purposes of this Paragraph, any written modification, amendment,
18 or addendum to the original selling agreement that changes the rights and obligations
19 of the parties to the original selling agreement shall constitute a new selling
20 agreement, effective as of the date of the modification, amendment, or addendum.

21 ~~(52)~~ **(53)** "Specialty vehicle" means a motor vehicle manufactured by a
22 second stage manufacturer by purchasing motor vehicle components, including
23 frames and drive trains, and completing the manufacture of finished motor vehicles
24 for the purpose of resale, with the primary manufacturer warranty unimpaired, to a
25 limited commercial market rather than the consuming public. Specialty vehicle
26 includes ambulances, fire trucks, garbage trucks, hearses, limousines, school buses,
27 street sweepers, vacuum trucks, wreckers, and other similar limited purpose vehicles.
28 Specialty vehicle does not include motor homes as defined in this Chapter.

29 ~~(53)~~ **(54)** "Specialty vehicle dealer" means any person who holds a bona fide

1 franchise in effect with a converter or second stage manufacturer of specialty
2 vehicles and a license under the provisions of this Chapter or a subsidiary of any
3 such entity. Such duly franchised and licensed specialty vehicle dealer shall be the
4 sole person entitled to sell, publicly solicit, and advertise the sale of specialty
5 vehicles.

6 ~~(54)~~ **(55)** "Subsidiary " shall mean any person engaged in the selling or
7 leasing of motor vehicles, recreational products, or specialty vehicles, in which a
8 majority of the ownership interests of such entity is owned by a holder of a license
9 issued by the commission.

10 ~~(55)~~ **(56)** "Trailer" means every single vehicle without motive power
11 designed for carrying property or passengers wholly on its own structure, drawn by
12 a motor vehicle which carries no part of the weight and load of the trailer on its own
13 wheels and having one or more load carrying axles. "Trailer" includes but is not
14 limited to utility trailers, boat trailers, recreational trailers, semitrailers, livestock
15 trailers, **tow dollies**, and dump trailers.

16 ~~(56)~~ **(57)** "Ultimate purchaser" means, with respect to any new motor vehicle,
17 recreational product, or specialty vehicle, the first person, other than a dealer
18 purchasing in his capacity as a dealer, who in good faith purchases such new motor
19 vehicles, recreational products, or specialty vehicles for purposes other than resale.
20 "Ultimate purchaser" shall not include a person who purchases a motor vehicle or
21 recreational product for purposes of altering or remanufacturing the motor vehicle
22 or recreational product for future resale.

23 ~~(57)(a)~~ **(58)(a)** "Used marine dealer" means any person, whose business is
24 to sell, or offer for sale, display, or advertise used marine products, or any person
25 who holds a license from the commission and is not excluded by Subparagraph (b)
26 of this Paragraph.

27 (b) "Used marine dealer" shall not include any of the following:

28 (i) Receivers, trustees, administrators, executors, guardians, or other persons
29 appointed by or acting under the judgment or order of any court.

- 1 (ii) Public officers while performing their official duties.
- 2 (iii) Employees of persons, corporations, or associations defined as "used
3 marine dealers" when engaged in the specific performance of their duties as such
4 employees.
- 5 (iv) Mortgagees or secured parties as to sales of marine products constituting
6 collateral on a mortgage or security agreement and who do not maintain a used car
7 lot or building with one or more employed marine product salesman.
- 8 (v) Insurance companies who sell motor vehicles to which they have taken
9 title as an incident of payments made under policies of insurance and who do not
10 maintain a used car lot or building with one or more employed marine product
11 salesman.
- 12 (vi) Used motor vehicle dealers licensed pursuant to R.S. 32:781 et seq.
- 13 ~~(58)~~ **(59)** "Used marine product" means a marine product, the legal title of
14 which has been transferred by a manufacturer, distributor, or dealer to an ultimate
15 purchaser.
- 16 ~~(59)~~ **(60)** "Used marine product facility" means any facility which is owned
17 and operated by a licensee of the commission and offers for sale used marine
18 products.
- 19 ~~(60)~~ **(61)** "Used motorcycle or all-terrain vehicle" means a motorcycle or all-
20 terrain vehicle, the legal title of which has been transferred by a manufacturer,
21 distributor, or dealer to an ultimate purchaser.
- 22 ~~(61)(a)~~ **(62)(a)** "Used motorcycle or all-terrain vehicle dealer" means any
23 person, whose business is to sell, or offer for sale, display, or advertise used
24 motorcycles or all-terrain vehicles, or any person who holds a license from the
25 commission and is not excluded by Subparagraph (b) of this Paragraph.
- 26 (b) "Used motorcycle or all-terrain vehicle dealer" shall not include any of
27 the following:
- 28 (i) Receivers, trustees, administrators, executors, guardians, or other persons
29 appointed by or acting under the judgment or order of any court.

- 1 (ii) Public officers while performing their official duties.
- 2 (iii) Employees of persons, corporations, or associations enumerated in the
3 definition of "used motorcycle or all-terrain vehicle dealer" when engaged in the
4 specific performance of their duties as such employees.
- 5 (iv) Mortgagees or secured parties as to sales of motorcycles or all-terrain
6 vehicles constituting collateral on a mortgage or security agreement and who do not
7 maintain a used car lot or building with one or more employed motorcycle or all-
8 terrain vehicle salesman.
- 9 (v) Insurance companies who sell motorcycles or all-terrain vehicles to which
10 they have taken title as an incident of payments made under policies of insurance and
11 who do not maintain a used car lot or building with one or more employed
12 motorcycle or all-terrain vehicle salesman.
- 13 (vi) Used motorcycle or all-terrain vehicle dealers licensed pursuant to R.S.
14 32:781 et seq.
- 15 ~~(62)~~ **(63)** "Used motorcycle or all-terrain vehicle facility" means any facility
16 which is owned and operated by a licensee of the commission and offers for sale
17 used motorcycles or all-terrain vehicles.
- 18 ~~(63)~~ **(64)** "Used motor vehicle" means a motor vehicle, recreational product,
19 or specialty vehicle, the legal title of which has been transferred by a manufacturer,
20 distributor, or dealer to an ultimate purchaser.
- 21 ~~(64)(a)~~ **(65)(a)** "Used motor vehicle dealer" means any person, whose
22 business is to sell, or offer for sale, display, or advertise used motor vehicles,
23 recreational products, or specialty vehicles, or any person who holds a license from
24 the commission and is not excluded by Subparagraph (b) of this Paragraph.
- 25 (b) "Used motor vehicle dealer" shall not include any of the following:
- 26 (i) Receivers, trustees, administrators, executors, guardians, or other persons
27 appointed by or acting under the judgment or order of any court.
- 28 (ii) Public officers while performing their official duties.
- 29 (iii) Employees of persons, corporations, or associations enumerated in the

1 definition of "used motor vehicle dealer" when engaged in the specific performance
2 of their duties as such employees.

3 (iv) Mortgagees or secured parties as to sales of motor vehicles constituting
4 collateral on a mortgage or security agreement and who do not maintain a used car
5 lot or building with one or more employed motor vehicle salesman.

6 (v) Insurance companies who sell motor vehicles to which they have taken
7 title as an incident of payments made under policies of insurance and who do not
8 maintain a used car lot or building with one or more employed motor vehicle
9 salesman.

10 (vi) Used motor vehicle dealers licensed pursuant to R.S. 32:781 et seq.

11 ~~(65)~~ **(66)** "Used motor vehicle facility" means any facility which is owned
12 and operated by a licensee of the commission and offers for sale used motor vehicles,
13 recreational products, or specialty vehicles.

14 ~~(66)~~ **(67)** "Used recreational vehicle" means a recreational vehicle, the legal
15 title of which has been transferred by a manufacturer, distributor, or dealer to an
16 ultimate purchaser.

17 ~~(67)(a)~~ **(68)(a)** "Used recreational vehicle dealer" means any person, whose
18 business is to sell, or offer for sale, display, or advertise used recreational vehicles,
19 or any person who holds a license from the commission and is not excluded by
20 Subparagraph (b) of this Paragraph.

21 (b) "Used recreational vehicle dealer" shall not include any of the following:

22 (i) Receivers, trustees, administrators, executors, guardians, or other persons
23 appointed by or acting under the judgment or order of any court.

24 (ii) Public officers while performing their official duties.

25 (iii) Employees of persons, corporations, or associations enumerated in the
26 definition of "used recreational vehicle dealer" when engaged in the specific
27 performance of their duties as such employees.

28 (iv) Mortgagees or secured parties as to sales of recreational vehicles
29 constituting collateral on a mortgage or security agreement and who do not maintain

1 a used car lot or building with one or more employed recreational vehicle salesman.

2 (v) Insurance companies who sell recreational vehicles to which they have
3 taken title as an incident of payments made under policies of insurance and who do
4 not maintain a used car lot or building with one or more employed recreational
5 vehicle salesman.

6 (vi) Used recreational vehicle dealers licensed pursuant to R.S. 32:781 et seq.

7 ~~(68)~~ **(69)** "Used recreational vehicle facility" means any facility which is
8 owned and operated by a licensee of the commission and offers for sale used
9 recreational vehicles.

10 ~~(69)~~ **(70)** "Vehicle" means any motor vehicle, specialty vehicle, or
11 recreational product subject to regulation by this Chapter.

12 ~~(70)~~ **(71)** "Wrecker" means any motor vehicle equipped with a boom or
13 booms, winches, slings, tilt beds, or similar equipment designed for towing or
14 recovery of vehicles and other objects which cannot operate under their own power
15 or for some reason must be transported by means of towing.

16 * * *

17 §1261. Unauthorized acts

18 A. It shall be a violation of this Chapter:

19 (1) For a manufacturer, a distributor, a wholesaler, distributor branch, factory
20 branch, converter or officer, agent, or other representative thereof:

21 * * *

22 **(x) To disqualify a manufacturer's sales or service satisfaction survey**
23 **that pertains to a dealership employee's personal motor vehicle or specialty**
24 **vehicle solely because it was mailed or communicated electronically from a**
25 **dealership.**

26 * * *

27 §1262. Warranty; compensation; audits of dealer records

28 * * *

29 B.(1)

* * *

1 **(8) The dealer shall not be charged back for any rebate paid to a**
 2 **consumer pursuant to a manufacturer's rebate program, provided the dealer**
 3 **acted in good faith when relying on the consumer's qualifying information and**
 4 **otherwise complied with the program requirements. A manufacturer's rebate**
 5 **program shall include but not be limited to a rebate program that targets**
 6 **college graduates, military personnel, first-time buyers, owner loyalty, family**
 7 **relationships, and any other similar program.**

* * *

9 **§1283. Vehicle protection; warranty; venue; choice of law**

10 **A provision contained in a vehicle protection product warranty requiring**
 11 **that arbitration or litigation be conducted outside this state or a provision that**
 12 **seeks to apply any law other than Louisiana law to disputes between the parties**
 13 **to a vehicle protection product warranty shall be void and unenforceable.**

14 Section 2. R.S. 32:1254(D)(6) is hereby repealed.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Michelle Ducharme.

DIGEST

Chabert (SB 136)

Present law defines "converter" or "secondary manufacturer" as a person who prior to the retail sale of motor vehicles, assembles, installs, or affixes a body, cab, or special equipment to a chassis, or who substantially adds, subtracts from, or modifies a previously assembled or manufactured motor vehicle.

Proposed law adds trailers to the definition of "converter" or "secondary manufacturer".

Proposed law defines "low speed vehicle" as a four-wheeled, electric powered vehicle with a maximum speed of not less than 20 miles per hour but not more than 25 miles per hour and that possesses minimum motor vehicle equipment appropriate for vehicle safety as required by federal law.

Present law defines "trailer" as every single vehicle without motive power designed for carrying property or passengers wholly on its own structure, drawn by a motor vehicle which carries no part of the weight and load of the trailer on its own wheels and having one or more load carrying axles. "Trailer" includes but is not limited to utility trailers, boat trailers, recreational trailers, semitrailers, livestock trailers, and dump trailers.

Proposed law adds tow dollies to the list of examples in the definition of "trailer".

Present law provides for unauthorized acts.

Proposed law provides that it shall be a violation of law for a manufacturer, distributor,

wholesaler, distributor branch, factory branch, converter or officer, agent, or other representative thereof to disqualify a manufacturer's sales or service satisfaction survey that pertains to a dealership employee's personal motor vehicle or specialty vehicle solely because it was mailed or communicated electronically from a dealership.

Present law provides for manufacturer charge backs to a dealer.

Proposed law provides that the dealer shall not be charged back for any rebate paid to a consumer pursuant to a manufacturer's rebate program, provided the dealer acted in good faith when relying on the consumer's qualifying information and otherwise complied with the program requirements. A manufacturer's rebate program shall include but not be limited to a rebate program that targets college graduates, military personnel, first-time buyers, owner loyalty, family relationships, and any other similar program.

Proposed law provides that a provision contained in a vehicle protection product warranty requirement that arbitration or litigation be conducted outside this state or a provision that seeks to apply any law other than that Louisiana law to disputes between the parties to a vehicle protection product warranty shall be void and unenforceable.

Present law provides for obtaining and maintaining a bond by a motor vehicle manufacturer, converter, distributor or wholesale, factory branch, and distributor branch licenses.

Proposed law removes the bond requirement.

Effective August 1, 2013.

(Amends R.S. 32:1252(8) and (23)-(70); adds R.S. 32:1252(71), 1261(A)(1)(x), 1262(B)(8), and 1283; repeals R.S. 32:1254(D)(6))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Commerce, Consumer Protection, and International Affairs to the original bill

1. Amends the definitions of "converter" or "secondary manufacturer" and "trailer".
2. Defines "low-speed vehicle".
3. Revises language to make it an authorized act for certain persons to disregard a dealership employee's sales or service satisfaction survey because it was mailed or communicated electronically from a dealership.
4. Revises language to provide that a dealer shall not be charged back for any rebate paid to a consumer pursuant to a manufacturer's rebate program, provided the dealer acted in good faith when relying on the consumer's qualifying information and otherwise complied with the program requirements.
5. Adds a provision contained in a vehicle protection product warranty requirement that arbitration or litigation be conducted outside this state or a provision that seeks to apply any law other than Louisiana law to disputes between the parties to a vehicle protection product warranty shall be void and unenforceable.
6. Removes the bond requirement for holders of motor vehicle manufacturer, converter, distributor or wholesale, factory branch, and distributor branch licenses.