

2015 Regular Session

HOUSE BILL NO. 594

BY REPRESENTATIVE HENRY

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

MOTOR VEHICLES: Provides with respect to the distribution and sale of vehicles

1 AN ACT

2 To amend and reenact R.S. 32:1254(G)(4), 1256.1(A)(1) and (2)(d), 1257(C),
3 1258(A)(introductory paragraph) and (6), 1261(A)(1)(n) and (r), 1264(A), (B), and
4 (D), 1270.5(A), (D), (E), and (J), 1270.17(A)(1)(introductory paragraph) and (c), and
5 (B), and 1270.29(A)(1)(c) and (B), relative to the distribution and sale of vehicles;
6 to provide for technical amendments; to establish a procedural requirement for
7 furnishing proof of insurance; to amend procedural requirement for issuing notice;
8 and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 32:1254(G)(4), 1256.1(A)(1) and (2)(d), 1257(C),
11 1258(A)(introductory paragraph) and (6), 1261(A)(1)(n) and (r), 1264(A), (B), and (D),
12 1270.5(A), (D), (E), and (J), 1270.17(A)(1)(introductory paragraph) and (c) and (B), and
13 1270.29(A)(1)(c) and (B) are hereby amended and reenacted to read as follows:

14 §1254. Application for license; requirements for licensure; contents; licenses;
15 franchise filings

16 * * *

17 G. Additional licensing and compliance requirements for satellite warranty
18 and repair centers.

19 * * *

20 (4)(a) All satellite warranty and repair centers shall, within the contents of
21 their application for a license pursuant to this Chapter, furnish evidence that they
22 currently have garage liability insurance or liability protection provided by a liability

1 trust fund as authorized by R.S. 22:46(9)(d) covering their place of business. The
2 required insurance policy or liability protection shall have limits of not less than one
3 hundred thousand dollars for bodily injury to one person, three hundred thousand
4 dollars per accident, and fifty thousand dollars for property damage.

5 (b) ~~Said~~ The insurance or liability protection shall be maintained throughout
6 the period of licensure.

7 (c) Failure to maintain ~~such~~ the insurance or liability protection shall result
8 in the immediate suspension of license, ~~which~~ The suspension shall be effective as
9 of the date of ~~said~~ the failure to maintain ~~said~~ the liability insurance coverage or
10 liability protection until proof of the required garage liability insurance or liability
11 protection is furnished to the commission. Should no proof of insurance or liability
12 protection provided by a liability trust fund as authorized by R.S. 22:46(9)(d) be
13 furnished to the commission within thirty days, the license of said licensee shall be
14 revoked.

15 * * *

16 §1256.1. Regional recreational products shows

17 A.(1) Shows where recreational products are displayed and promoted for sale
18 are hereby authorized as provided for in this Section, except that no final sale and
19 delivery of a recreational product shall occur at ~~such~~ these ~~show~~ shows except by
20 licensed Louisiana dealers whose areas of responsibility for the brand of recreational
21 products they represent include the location of the show.

22 (2) When used in this Section, the following words and phrases have the
23 meanings ascribed to them in this Paragraph:

24 * * *

25 (d) "Rally" means an event not opened to the general public held and
26 organized by recreational product clubs of specific products owners or manufacturers
27 of specific products where owners of ~~such~~ the products are members of the club and
28 are invited to participate in the event.

29 * * *

1 §1257. Establishment of new motor vehicle dealerships ~~and/or~~ or relocations;
2 protests; procedure

3 * * *

4 C. The objection shall be in writing; and shall be received by the commission
5 within a fifteen-day period after receipt of the notice. ~~Said~~ The fifteen-day objection
6 period shall be waived upon written notification to the commission from all
7 licensees, who are entitled to object, that ~~said~~ the licensees have no objections to the
8 proposed change or addition for which ~~said~~ the notice of intent was issued. If timely
9 objection is lodged, and prior to the issuance of the license, the commission shall
10 hold a hearing within thirty days after receipt of the objection, or forty-five days after
11 the request is made for the three-member panel, and issue its decision within ninety
12 days after date of ~~said~~ the hearing. Notice of hearing and an opportunity to
13 participate therein shall be given to the motor vehicle dealer or distributor, to the
14 applicant for the license as a motor vehicle dealer, and to the protesting dealership
15 or dealerships. The absence of a timely protest shall not prevent the commission
16 from considering the effect of the issuance of a license on other motor vehicle
17 dealerships located either within or on other motor vehicle dealerships, located either
18 within or outside the community or territory as part of its determination of whether
19 or not the license sought should be issued.

20 * * *

21 §1258. Denial, revocation, grounds, imposition of a civil penalty, or suspension of
22 license; grounds; expiration

23 A. The commission may, in addition to imposing a civil penalty ~~under~~
24 pursuant to the provisions of this Chapter, deny an application for a license; or
25 revoke or suspend a license after it has been granted for any ~~one~~ of the following
26 reasons:

27 * * *

1 (6) For any violation of any law relating to the sale, lease, or rental,
2 distribution, or financing of vehicles.

3 * * *

4 §1261. Unauthorized acts

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

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

8 * * *

9 (n) To fail to designate and provide to the commission in writing either the
10 community or territory assigned to a licensee.

11 * * *

12 (r) To demand compliance with facilities requirements that include any
13 requirements that a motor vehicle dealer establish or maintain exclusive office,
14 parts, service or body shop facilities, unless ~~such~~ the requirements would be
15 reasonable and justified by business considerations. The burden of proving that ~~such~~
16 the requirements are reasonable and justified by business considerations is on the
17 manufacturer. If the franchise agreement of the manufacturer or distributor requires
18 the approval of the manufacturer or distributor for facility uses or modifications, the
19 manufacturer or distributor shall approve or disapprove such a request in writing
20 within sixty days of receipt of such request.

21 * * *

22 §1264. Damage disclosure

23 A. Whenever a new vehicle subject to regulation pursuant to this Chapter is
24 sold to any person, the seller shall notify the purchaser of any body damage or
25 mechanical damage which the vehicle has sustained that exceeds six percent of the
26 manufacturer's suggested retail price or, in the case of recreational vehicles, six
27 percent of the manufacturer's wholesale price. ~~Such~~ The notice shall be in writing
28 and a copy thereof shall be delivered to the purchaser prior to or simultaneous with
29 transfer of the vehicle title.

1 B. Replacement of a new recreational vehicle's instrument panels,
2 appliances, furniture, cabinetry, televisions, audio equipment, or similar residential
3 components shall not be deemed "damage" pursuant to this Section if ~~such~~ the items
4 are replaced with original manufacturers' parts and materials.

5 * * *

6 D. The provisions of this Section shall not apply to marine products,
7 motorcycles, ~~or~~ all-terrain vehicles, or recreational vehicles.

8 * * *

9 §1270.5. Manufacturer, distributor, or wholesaler repurchase; marine dealer;
10 products

11 A. If any marine dealer enters into a franchise with a manufacturer,
12 distributor, or wholesaler wherein the marine dealer agrees to maintain an inventory
13 of marine products or repair parts, the manufacturer, distributor, or wholesaler shall
14 not terminate or fail to renew ~~such~~ the franchise unless there is a breach of the
15 franchise by the marine dealer and until ninety days after notice of ~~such~~ the intention
16 to terminate, including the breach of the franchise, has been sent by certified mail,
17 return receipt requested, or commercial delivery service with verification of receipt,
18 to the marine dealer and the commission and the marine dealer has failed to correct
19 the breach within such period.

20 * * *

21 D. It shall not be unlawful for the marine dealer with due cause and pursuant
22 to the marine dealer's own initiating action to terminate or fail to renew a franchise
23 with a manufacturer, wholesaler, or distributor, and the manufacturer, wholesaler,
24 or distributor shall repurchase inventory as provided by this Section. To determine
25 what constitutes due cause for a marine dealer to terminate or fail to renew a
26 franchise, the following factors regarding the manufacturer, wholesaler, distributor
27 or representative of one of the so named shall include whether the manufacturer,
28 wholesaler, distributor, or representative of one of the so named:

29 * * *

1 E. If a manufacturer, distributor, or wholesaler does not intend to renew a
2 franchise, the manufacturer, distributor, or wholesaler shall give the marine dealer
3 and the commission ninety days written notice prior to the effective date by certified
4 mail, return receipt requested, or commercial delivery service with verification of
5 receipt.

6 * * *

7 J. If a marine dealer completes a bona fide, orderly, and permanent closure
8 of the marine dealership, which does not involve a sale of the dealership, and
9 provides at least ninety days notice to the manufacturer, wholesaler, ~~or~~ distributor,
10 and the commission, the marine products and parts inventory shall be repurchased
11 by the manufacturer, wholesaler, or distributor in the manner provided for in this
12 Section, when a franchise is terminated as result of action by the manufacturer,
13 wholesaler, or distributor.

14 * * *

15 §1270.17. Requirements upon termination; penalty; indemnity; motorcycle or all-
16 terrain vehicle dealers

17 A.(1) In the event the licensee ceases to engage in the business of being a
18 motorcycle dealer or all-terrain vehicle dealer, or ceases to sell a particular make of
19 motorcycle or all-terrain vehicle and after notice to the manufacturer, converter,
20 distributor, or representative by certified mail or commercial delivery service with
21 verification of receipt, within thirty days of the receipt of the notice by the
22 manufacturer, converter, distributor, or representative, the manufacturer, converter,
23 distributor, or representative shall repurchase:

24 * * *

25 (c) At fair market value, all special tools and automotive service equipment
26 owned by the motorcycle dealer or all-terrain vehicle dealer which were
27 recommended in writing and designated as special tools and equipment and
28 purchased from or purchased at the request of the manufacturer, converter,
29 distributor, or representative, if the tools and equipment are in usable and good

1 condition except for reasonable wear and tear. Fair market value shall be no less than
2 cost of acquisition of special tools and automotive service equipment by the
3 motorcycle dealer or all-terrain vehicle dealer.

4 * * *

5 B. Failure to make ~~such~~ the repurchase without just cause shall subject the
6 manufacturer or converter to a penalty of one and one-half percent per month, or
7 fraction thereof, of the inventory value or returnable motorcycles or all-terrain
8 vehicles, and parts, signs, special tools, and automotive service equipment, payable
9 to the dealer, as long as the repurchase is not made.

10 * * *

11 §1270.29. Requirements upon termination; penalty; indemnity; recreational vehicles

12 A.(1) In the event the licensee ceases to engage in the business of being a
13 recreational vehicle dealer, or ceases to sell a particular recreational vehicle, and
14 after notice to the manufacturer, converter, distributor, or representative by certified
15 mail or commercial delivery service with verification of receipt, within thirty days
16 of the receipt of the notice by the manufacturer, converter, distributor, or
17 representative, the manufacturer, converter, distributor, or representative shall
18 repurchase:

19 * * *

20 (c) At fair market value, all special tools and automotive service equipment
21 owned by the recreational vehicle dealer, which were recommended in writing and
22 designated as special tools and equipment and purchased from or purchased at the
23 request of the manufacturer, converter, distributor, or representative, if the tools and
24 equipment are in usable and good condition except for reasonable wear and tear.
25 Fair market value shall be no less than the cost of acquisition of special tools and
26 automotive service equipment by the recreational vehicle dealer.

27 * * *

28 B. Failure to make ~~such~~ the repurchase without just cause shall subject the
29 manufacturer or converter to a penalty of one and one-half percent per month, or

1 fraction thereof, of the inventory value or returnable recreational vehicles, and parts,
2 signs, special tools, and automotive service equipment, payable to the dealer, as long
3 as the repurchase is not made.

4 * * *

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 594 Original 2015 Regular Session Henry

Abstract: Corrects technical errors and amends procedural requirements for providing proof of insurance and issuing notice to the Louisiana Motor Vehicle Commission.

Proposed law makes technical changes.

Present law requires that satellite warranty and repair centers furnish evidence of maintaining certain insurance coverages. Proposed law requires that satellite warranty and repair centers furnish evidence of maintaining certain insurance coverages within the contents of their application for license.

Present law requires a manufacturer, wholesaler, distributor, or its representative who terminates or fails to renew a marine dealer franchise to provide 90 days written notice prior to the effective date by certified mail, return receipt requested, or commercial delivery service with verification of receipt to the marine dealer. Proposed law requires a manufacturer, wholesaler, distributor, or its representative who terminates or fails to renew a marine dealer franchise to provide 90 days written notice prior to the effective date by certified mail, return receipt requested, or commercial delivery service with verification of receipt to the marine dealer and the Louisiana Motor Vehicle Commission.

Present law requires a marine dealer who completes a bona fide, orderly, and permanent closure of the marine dealership to provide at least 90 days notice to the manufacturer, wholesaler, or distributor. Proposed law requires a marine dealer who completes a bona fide, orderly, and permanent closure of the marine dealership to provide at least 90 days notice to the manufacturer, wholesaler, or distributor and the Louisiana Motor Vehicle Commission.

(Amends R.S. 32:1254(G)(4), 1256.1(A)(1) and (2)(d), 1257(C), 1258(A)(intro. para.) and (6), 1261(A)(1)(n) and (r), 1264(A), (B), and (D), 1270.5(A), (D), (E), and (J), 1270.17(A)(1)(intro. para.) and (c) and (B), and 1270.29(A)(1)(c) and (B))