

Regular Session, 2012

SENATE BILL NO. 175

BY SENATOR APPEL

MOTOR VEHICLES. Provides relative to unauthorized acts of certain persons regulated by the Louisiana Motor Vehicle Commission. (8/1/12)

1 AN ACT

2 To amend and reenact R.S. 32:1268(A)(1)(a)(introductory paragraph) and (c), (2) and (B),
3 and to enact R.S. 32:1261(1)(x), relative to the Louisiana Motor Vehicle
4 Commission; to provide for regulation and enforcement by the commission; to
5 provide for repurchase of certain tools and equipment; to provide for unauthorized
6 actions of certain persons regulated by the commission; and to provide for related
7 matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 32:1268(A)(1)(a)(introductory paragraph) and (c), (2) and (B) are
10 hereby amended and reenacted and R.S. 32:1261(1)(x) is hereby enacted to read as follows:

11 §1261. Unauthorized acts

12 It shall be a violation of this Chapter:

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

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16 **(x) To charge back, deny vehicle allocation, withhold payments, or take**
17 **any other adverse actions against a motor vehicle dealer because of a sale of a**

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B. Failure to make such repurchase without just cause shall subject the manufacturer or converter to a penalty of one and one-half percent per month, or fraction thereof, of the inventory value or returnable recreational product, ~~specialty~~ **specialty** and motor vehicles, and parts, signs, special tools, and automotive service equipment, payable to the dealer, as long as the repurchase is not made.

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The original instrument was prepared by Michelle Ducharme. The following digest, which does not constitute a part of the legislative instrument, was prepared by Thomas L. Tyler.

DIGEST

Appel (SB 175)

Present law provides for the requirements upon termination of a dealer licensee.

Present law requires the repurchase of all new motor vehicles, recreational products, and specialty vehicles of the current and last prior model year delivered to the licensee and parts on hand that have not been damaged or substantially altered to the prejudice of the manufacturer while in the possession of the licensee.

Present law requires repurchase at fair market value of all special tools and automotive service equipment owned by the dealer which were recommended in writing and designated as special tools and equipment and purchased from or purchased at the request of the manufacturer, converter, distributor, or representative, if the tools and equipment are in usable and good condition except for reasonable wear and tear. Fair market value shall be no less than cost of acquisition of special tools and automotive service equipment by the dealer.

Proposed law provides that the items to be repurchased were purchased in the ordinary course of business.

Present law requires the manufacturer or converter to make the required repurchase after the dealer terminates his franchise and within 30 days for motor and specialty vehicle dealers and 60 days for recreational products dealers of the submission to it, by certified mail, return receipt requested, or commercial delivery service with verification of receipt, of a final inventory of motor vehicles and parts.

Proposed law requires that within 30 days after a motor vehicle dealer terminates his franchise, the manufacturer or converter is to make required repurchases after the dealer has satisfied all of the following conditions:

1. The dealer submits to the manufacturer, by certified mail, return receipt requested, or commercial delivery service with verification of receipt, a final inventory of motor vehicles and parts, special tools, and automotive services on hand; and
2. The dealer tenders the parts, special tools, and automotive service equipment to the manufacturer.

Further requires that within 30 days after a specialty vehicle dealer terminates his franchise,

the manufacturer or converter is to make the required repurchases after the dealer has submitted to the manufacturer by certified mail, return receipt requested, or commercial delivery service with verification of receipt, a final inventory of motor vehicles and parts on hand.

Proposed law requires that within 60 days after a recreational products dealer terminates his franchise, the manufacturer or converter is to make required repurchases after the dealer has submitted to the manufacturer by certified mail, return receipt requested, or commercial delivery service with verification of receipt, a final inventory of motor vehicles and parts on hand.

Present law provides for unauthorized actions of a manufacturer, distributor, wholesaler, distributor branch, factory branch, or converter of motor vehicles, or officer, agent, or other representative thereof.

Proposed law retains present law and prohibits a manufacturer, distributor, wholesaler, distributor branch, factory branch, or converter of motor vehicles, or officer, agent, or other representative thereof from charging back, denying vehicle allocation, withholding payments, or taking any other adverse actions against a motor vehicle dealer because of a sale of a new motor vehicle that is exported from the United States, unless it is shown that the dealer knew or reasonably should have known on the date of the sale that the new motor vehicle was to be exported. A motor vehicle dealer shall be rebuttably presumed to have no knowledge of the export if the motor vehicle is sold by the dealer to a resident of the United States who titles and registers the motor vehicle in any state within the United States.

Effective August 1, 2012.

(Amends R.S. 32:1268(A)(1)(a)(intro para) and (c), (2) and (B); adds R.S. 32:1261(1)(x))

Summary of Amendments Adopted by Senate

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

1. Specifies that for repurchase, new motor vehicles, recreational products, specialty vehicles, tools and automotive service equipment owned by the dealer were purchased in the ordinary course of business.
2. Adds that for motor vehicles, the manufacturer or converter shall make the required repurchase after the dealer terminates his franchise and tenders the parts and special tools and automotive service equipment to the manufacturer.

Senate Floor Amendments to reengrossed bill.

1. Provides for the repurchase after a dealer terminates the franchise of a manufacturer or converter.