



SPONSOR: Sen. Ennis & Rep. Paradee
Reps. Briggs King, Q. Johnson, Keeley, Miro, Outten,
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DELAWARE STATE SENATE
147th GENERAL ASSEMBLY

SENATE BILL NO. 22

AN ACT TO AMEND TITLE 21 AND TITLE 30 OF THE DELAWARE CODE RELATING TO RECREATIONAL VEHICLES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Three-fifths of all members elected to each house thereof concurring therein):

Section 1. Amend Title 21 of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows:

CHAPTER 84. RECREATIONAL VEHICLE MANUFACTURER-DEALER AGREEMENTS.

§ 8401. Legislative intent.

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

(b) The intent of the Legislature is that the provisions of this chapter be applied to manufacturer-dealer agreements in regard to recreational vehicles, entered into on or after July 1, 2013.

§ 8402. Definitions.

As used in this chapter, the following definitions apply:

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

(2) "Dealer" means a person, firm, corporation, or business entity who is engaged in the business of buying, selling, or exchanging new recreational vehicles.

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

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

- (5) "Family member" means a spouse, child, grandchild, parent, sibling, niece, or nephew, or the spouse thereof.
- (6) "Line-make" means a specific series of recreational vehicle products that:
- a. Are identified by a common series trade name or trademark;
 - b. Are targeted to a particular market segment, as determined by their decor, features, equipment, size, weight, and price range;
 - c. Have lengths and interior floor plans that distinguish the recreational vehicles from other recreational vehicles with substantially the same decor, equipment, features, price, and weight;
 - d. Belong to a single, distinct classification of recreational vehicle product type having a substantial degree of commonality in the construction of the chassis, frame, and body; and
 - e. The manufacturer-dealer agreement authorizes a dealer to sell.
- (7) "Manufacturer" means a person, firm, corporation, or business entity that engages in the manufacturing of recreational vehicles.
- (8) "Manufacturer-dealer agreement" means a written agreement or contract entered into between a manufacturer or distributor and a dealer that fixes the rights and responsibilities of the parties and pursuant to which the dealer sells new recreational vehicles.
- (9) "New recreational vehicle" means a motorhome, travel trailer, fifth-wheel trailer, or folding camping trailer, which has not been the subject of a retail sale.
- (10) "Proprietary part" means any part manufactured by or for, and sold exclusively by, the manufacturer.
- (11) "Recreational vehicle" means a vehicle which is primarily designed as temporary living quarters for recreational, camping, or travel use, and that either has its own motive power or is towed by another motor vehicle. A "recreational vehicle" may be a motor home, travel trailer, fifth-wheel travel trailer, or folding camping trailer.
- a. "Motor home" means a motor vehicle designed to provide temporary living quarters for recreational, camping, or travel use. A "motor home" must contain at least four of the following permanently installed, independent life-support systems which meet the National Fire Protection Association standard for recreational vehicles:
 - (i) A cooking facility with an on-board fuel source;
 - (ii) A potable water supply system that includes at least a sink, a faucet, and a water tank with an exterior service supply connection;
 - (iii) A toilet with exterior evacuation;

(iv) A gas or electric refrigerator;

(v) A heating or air conditioning system with an on-board power or fuel source separate from the vehicle engine; or

(vi) A 110-125 volt electric power supply.

b. “Travel trailer” means a vehicle, mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use. A “travel trailer” must be of such size and weight as to not require a special highway movement permit when towed by a motorized vehicle.

c. “Fifth-wheel trailer” means a vehicle, mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use. A “fifth-wheel trailer” must be of such size and weight as to not require a special highway movement permit, and must be designed to be towed by a motorized vehicle that contains a towing mechanism that is mounted above or forward of the tow vehicle's rear axle.

d. “Folding camping trailer” means a vehicle that is mounted on wheels and constructed with collapsible partial side walls that fold for towing by another vehicle and unfold at the campsite to provide temporary living quarters for recreational, camping, or travel use.

(12) “Supplier” means any person, firm, corporation, or business entity that engages in the manufacturing of recreational vehicle parts, accessories, or components.

(13) “Transient customer” means a customer who is temporarily traveling through a dealer's area of sales responsibility.

(14) “Warrantor” means any person, firm, corporation, or business entity, including any manufacturer or supplier that provides a written warranty to the consumer in connection with a new recreational vehicle or parts, accessories, or components thereof. The term “warrantor” does not include service contracts, mechanical or other insurance, or extended warranties sold for separate consideration by a dealer or other person not controlled by a manufacturer.

§ 8403. Written agreements and designated territories.

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

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

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

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

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

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

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

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

(1) The extent of the affected dealer's penetration in the area of sales responsibility.

(2) The nature and extent of the dealer's investment in its business.

(3) The adequacy of the dealer's service facilities, equipment, parts, supplies, and personnel.

(4) The effect of the proposed action on the community.

(5) The extent and quality of the dealer's service under recreational vehicle warranties.

(6) The dealer's failure to follow agreed-upon procedures or standards related to the overall operation of the dealership.

(7) The dealer's performance under the terms of its manufacturer-dealer agreement.

(c) Except as otherwise provided in this chapter, a manufacturer or distributor shall provide a dealer with at least 120 days prior written notice of termination, cancellation, or nonrenewal of the manufacturer-dealer agreement if the dealer is being terminated, cancelled, or nonrenewed for good cause.

(1) The notice must state all reasons for the proposed termination, cancellation, or nonrenewal, and must further state that if, within 30 days following receipt of the notice, the dealer provides to the manufacturer or distributor a written notice of intent to cure all claimed deficiencies, the dealer will then be entitled to the full 120-day notice period, commencing from the dealer's receipt of the manufacturer's or distributor's original notice to

111 rectify the deficiencies. If the deficiencies are rectified within the 120-day notice period, the manufacturer's or
112 distributor's notice is voided. If the dealer fails to provide the notice of intent to cure the deficiencies in the
113 prescribed 30-day time period, the termination, cancellation, or nonrenewal takes effect 30 days after the dealer's
114 receipt of the manufacturer's or distributor's original notice.

115 (2) The notice period may be reduced to 30 days if the manufacturer's or distributor's grounds for
116 termination, cancellation, or nonrenewal are due to any of the following good cause factors:

117 a. A dealer or in the case of a privately held company, a majority shareholder, being
118 convicted of, or entering a plea of *nolo contendere* to, a felony;

119 b. The abandonment or closing of the business operations of the dealer for 10 consecutive
120 business days unless the closing is due to an act of God, strike, labor difficulty, or other cause over which
121 the dealer has no control;

122 c. A significant misrepresentation by a dealer that materially affects the business
123 relationship between the dealer and the manufacturer or distributor;

124 d. A suspension or revocation of a dealer's license, or refusal to renew the dealer's license,
125 by the Division of Motor Vehicles;

126 e. A material violation of this chapter which the dealer does not cure within 30 days after
127 written notice by the manufacturer or distributor; or

128 f. A declaration by a dealer of bankruptcy, insolvency, or the occurrence of an assignment
129 for the benefit of creditors or bankruptcy;

130 (d) A dealer may terminate, cancel, or not renew its manufacturer-dealer agreement with a manufacturer or
131 distributor with or without good cause by giving 30-days written notice. In the case of a dealer terminating, cancelling, or
132 failing to renew a manufacturer-dealer agreement for good cause, the notice must state all the reasons for the proposed
133 termination, cancellation, or nonrenewal, and must further state that if, within 30 days following receipt of the notice, the
134 manufacturer or distributor provides to the dealer a written notice of intent to cure all claimed deficiencies, the
135 manufacturer or distributor will then be entitled to a 90-day notice period commencing from the manufacturer's receipt of
136 the dealer's original notice. If the deficiencies are rectified within the 90-day notice period, the dealer's notice is voided. If
137 the manufacturer or distributor fails to provide the notice of intent to cure the deficiencies in the prescribed 30-day time
138 period, the termination, cancellation, or nonrenewal takes effect 30 days after the manufacturer's or distributor's receipt of
139 the dealer's original notice, unless the parties agree otherwise in writing.

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

(1) A manufacturer or distributor or in the case of a privately held company, a majority shareholder, being convicted of, or entering a plea of *nolo contendere* to, a felony.

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

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

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

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

§ 8405. Repurchase of inventory.

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

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

(2) All undamaged accessories and proprietary parts sold to a dealer for resale within the 12 months prior to termination, cancellation, or nonrenewal, if accompanied by the original invoice, at 105 percent of the

original net price paid to the manufacturer or distributor to compensate the dealer for handling, packing, and shipping the parts; and

(3) Any properly functioning diagnostic equipment, special tools, current signage, and other equipment and machinery at 100 percent of the dealer's net cost plus freight, destination, delivery, and distribution charges and sales taxes, if any, if the items were purchased by the dealer within 5 years before termination, cancellation, or nonrenewal upon the manufacturer's or distributor's request, and can no longer be used in the normal course of the dealer's ongoing business.

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

§ 8406. Transfer of dealership; family succession.

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

(1) Has previously been terminated by the manufacturer or distributor for breach of its dealer agreement;

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

(3) Lacks a license required by law;

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

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

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

(c) It is unlawful for a manufacturer or distributor to fail to provide a dealer with an opportunity to designate, in writing, a family member as a successor to the dealership in the event of the death, incapacity, or retirement of the dealer. It is unlawful to prevent or refuse to honor the succession to a dealership by a family member of the deceased, incapacitated, or retired dealer, unless the manufacturer or distributor has provided to the dealer written notice of its objections within 10 days after receipt of the dealer's modification of the dealer's succession plan. In the absence of a breach of the manufacturer-dealer agreement, the manufacturer or distributor may object to the succession for the following reasons only:

- (1) Conviction of the successor of a felony or any crime of fraud, deceit, or moral turpitude;
- (2) Bankruptcy or insolvency of the successor during the past 10 years;
- (3) Prior termination by the manufacturer or distributor of the successor for breach of a manufacturer dealer agreement;
- (4) The lack of an active line of credit for the successor sufficient to purchase the manufacturer's or distributor's product; or
- (5) The lack of a license for the successor required by law.

(d) A manufacturer or distributor has the burden of proof regarding its objection under subsection (c) of this section. However, a family member may not succeed to a dealership if the succession involves, without the manufacturer's or distributor's consent, a relocation of the business or an alteration of the terms and conditions of the manufacturer-dealer agreement.

§ 8407. Warranty obligations.

(a) A warrantor shall:

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

(b) Time allowances for the diagnosis and performance of warranty labor must be reasonable for the work to be performed. In the determination of what constitutes reasonable compensation under this section, the principal factors to be given consideration are the actual wage rates being paid by the dealer, and the actual retail labor rate being charged by

the dealers in the community in which the dealer is doing business. The compensation of a dealer for warranty labor may not be less than the lowest retail labor rates actually charged by the dealer for like nonwarranty labor, as long as such rates are reasonable.

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

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

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

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

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

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

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

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

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

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

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

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

(i) It is a violation of this chapter for a dealer to:

(1) Fail to perform predelivery inspection functions, as specified by the warrantor, in a competent and timely manner;

(2) Fail to perform warranty service work authorized by the warrantor in a competent and timely manner on any transient customer's vehicle of the same line-make;

(3) Fail to accurately document the time spent completing each repair, the total number of repair attempts conducted on a single unit, and the number of repair attempts for the same repair conducted on a single vehicle;

(4) Fail to notify the warrantor within 10 days of a second repair attempt which impairs the use, value or safety of the vehicle;

(5) Fail to maintain written records, including a consumer's signature, regarding the amount of time a unit is stored for the consumer's convenience during a repair; or,

(6) Make fraudulent warranty claims or misrepresent the terms of a warranty.

§ 8408. Indemnification.

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

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

(2) A dealer to fail to indemnify and hold harmless its warrantor against any losses or damages to the extent that the losses or damages are caused by the negligence or willful misconduct of the dealer. A warrantor

shall provide to a dealer a copy of any pending law suit or similar proceeding in which allegations are made that are covered by subsection within 10 days after receiving such suit.

§ 8409. Inspection and rejection by the dealer.

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

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

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

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

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

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

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

§ 8410. Coercion of dealer prohibited.

(a) A manufacturer or distributor may not coerce or attempt to coerce a dealer to:

(1) Purchase a product that the dealer did not order;

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

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

(b) As used in this section, the term "coerce" includes, but is not limited to, threatening to terminate, cancel, or not renew a manufacturer-dealer agreement without good cause; or threatening to withhold product lines that the dealer is entitled to purchase pursuant to the manufacturer-dealer agreement; or threatening to delay product delivery as an inducement to amending the manufacturer-dealer agreement.

§ 8411. Mediation

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

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

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

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

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

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

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

(c) In addition to the remedies provided in this section and notwithstanding the existence of any additional remedy at law, a manufacturer, distributor, warrantor, or dealer may make application to a court of competent jurisdiction for the grant, upon a hearing and for cause shown, of a temporary or permanent injunction, or both, restraining any person

348 from acting as a dealer without being properly licensed, from violating or continuing to violate any of the provisions of this
349 chapter, or from failing or refusing to comply with the requirements of this chapter. An injunction must be issued without
350 bond. A single act in violation of the provisions of this chapter is sufficient for a court to authorize the issuance of an
351 injunction.

352 Section 2. Amend Chapter 63, Title 21 of the Delaware Code by making insertions as shown by underlining and
353 deletions as shown by strikethrough as follows:

354 § 6301. Definitions.

355 As used in this chapter:

356 (1) "Consignment" ~~is~~ means when a vehicle owner enters into an agreement with a dealer for the sale of a vehicle
357 without a transfer of ownership to the dealer.

358 (2) "Dealer" or "~~Motor~~ Vehicle Dealer" includes:

359 (3) "Dealer" or "~~Motor~~ Vehicle Dealer" shall not include:

360 c. Any financial institution chartered or authorized to do business in Delaware, including its subsidiaries
361 or affiliates, which receives title to a ~~motor~~ vehicle in the normal course of its business by reason of a lease, foreclosure,
362 repossession, judicial sale or voluntary conveyance or reconveyance of the ~~motor~~-vehicle as a result of any lease of the
363 ~~motor~~ vehicle or any extension of credit secured by the ~~motor~~ vehicle or the enforcement of any lien on the ~~motor~~ vehicle;

364 (4) "Department" ~~shall~~ means the Department of Transportation, Division of Motor Vehicles.

365 (5) "Director" ~~shall~~ means the Director of the Division of Motor Vehicles or the Director's authorized or
366 delegated representative.

367 (6) "Division" ~~shall~~ means the Division of Motor Vehicles.

368 (7) "Franchised ~~Motor~~ Vehicle dealer" means a dealer in new vehicles that has a franchise agreement with a
369 manufacturer or distributor of vehicles or, in the case of a recreational vehicle dealer, has a manufacturer-dealer agreement
370 with a manufacturer or distributor to sell a particular line-make of recreation vehicle. As used in this section, the term,
371 "line-make" is defined in § 8402(6) of this title.

372 (8) "Vehicle" means motor vehicles, trailers, recreational vehicles, mobile homes, and any other device in, upon
373 or by which any person or property is or may be transported or drawn upon a public highway, excepting devices moved by
374 animal power, human power, off-highway vehicles, special mobile equipment and farm equipment.

375 (9) "Wholesale ~~D~~ dealer" means a dealer who may sell vehicles only to another dealer or licensed auto auction.

376 § 6303. Location requirements; ~~and~~ records.

(a) Except as provided in § 6311(b), no dealers license shall be issued to any vehicle dealer unless the dealership has an established place of business in Delaware that is; owned, rented, or leased by the dealership and which:

(2) Has sales and office space devoted to the dealership and has adequate display space for 5 or more vehicles, and, in the case of a new recreational vehicle dealer, has a service facility;

(c) Every dealer shall have in its possession a certificate of title assigned to the dealership or other documentary evidence of the dealer's right to the possession of, and for, every ~~motor~~ vehicle in the dealership's possession or on the dealership premises.

§ 6305. Bill of sale.

Every ~~motor~~ vehicle dealer shall complete, in duplicate, a bill of sale for each sale or exchange of a ~~motor~~ vehicle. The original shall be retained for a period of 5 years. A duplicate copy shall be delivered to the purchaser at the time of sale or exchange. The bill of sale shall be signed by both buyer and seller. A bill of sale shall include the following:

(3) The name and address of the ~~motor~~ vehicle dealer selling or trading the vehicle;

§ 6306. Consignment vehicles contract.

(a) Any ~~motor~~ vehicle dealer offering a vehicle for sale on consignment shall have in their possession a consignment contract for the vehicle, executed and signed by the dealer and the consignor. The consignment contract shall include the following:

(b) Any dealer offering a vehicle for sale on consignment shall inform any prospective customer that the vehicle is on consignment. Dealer license plates shall not be used to demonstrate a vehicle on consignment. The owners license plate may be used if liability insurance coverage is in effect in the amount prescribed by Delaware law.

§ 6311. License requirements.

(a) In the event any dealer intends to change a licensed location, the dealer shall provide the Division of Motor Vehicles advance written notice. A successful inspection of the new location shall be required prior to approval of a change of location by the dealer. All requirements of § 6303 of this title shall be completed prior to final approval.

(b) Notwithstanding anything herein to the contrary, a recreational vehicle dealer may sell and display new and used recreational vehicles at trade or public retail vehicle shows, rallies, or exhibitions, including those in enclosed malls, for up to 14 days per event, provided that:

(1) Delaware recreational vehicle dealers outside of their "area of sales responsibility," as the term is defined in § 8402(1) of this title, do not exhibit, sell, or offer for sale the same line-make of recreational vehicle as a Delaware dealer whose area of sales responsibility encompasses the location of the recreational vehicle trade show or public retail vehicle show, or rally or exhibition, where the term "line-make" has the same meaning as

defined in § 8402(6) of this title; without the written permission of the dealer whose area of responsibility encompasses the show, rally, or exhibition site; and

(2) An out-of-state recreational vehicle dealer, without an established place of business in Delaware, must meet all of the following conditions:

(i) The dealer must be from a state contiguous to Delaware that permits Delaware dealers to participate in recreational vehicle trade shows, or public retail vehicle shows, or rallies, or exhibitions, including those in enclosed malls, in the dealer's state under conditions substantially equivalent to those imposed on out-of-state dealers by Delaware;

(ii) The dealer must be in compliance with the laws of the dealer's state of residence;

(iii) The recreational vehicle trade show or public retail vehicle show, or rally, or exhibition in which the dealer is participating must have a minimum of three (3) participating dealers, the majority of which are from Delaware;

(iv) The dealer may not exhibit, sell, or offer for sale the same line-make of recreational vehicle as a Delaware dealer who is participating in the same recreational vehicle trade show or public retail vehicle show, rally, or exhibition without the Delaware dealer's written permission, where the term "line-make" has the same meaning as defined in § 8402(6) of this title; and

(v) The dealer must secure a temporary license from the Division of Motor Vehicles, with an effective time period of not more than 14 days, authorizing the dealer's participation in the recreational vehicle trade show, or public retail vehicle show, or rally or exhibition. The dealer will be limited to one temporary license per calendar year.

§ 6312. Issuance of dealer license.

~~The Department, u~~ Upon receiving an dealer license application for approval, and ~~when~~ satisfied that the applicant is of good character and, so far as can be ascertained, the applicant has complied with and will comply with, the laws of this and other states, Division of Motor Vehicles shall approve the application and issue a dealer license. ~~The approval shall A~~ license entitles ~~the a~~ dealer to carry on and conduct the business of a dealer during the calendar year in which ~~approval the~~ license is issued. Franchised new vehicle dealers must provide the Division a copy of the franchise agreement, or, in the case of a recreational vehicle dealer, a manufacturer-dealer agreement, prior to being licensed as a new vehicle dealer.

§ 6313. Grounds for denying renewal of dealer license; ~~or~~ suspension or revocation of license.

A dealer license applied for or issued pursuant to this chapter may be denied, suspended, or revoked for any one of the following reasons:

(1) Material misstatement or omission on the application for a dealer license.

(5) Failure to maintain a service facility, if the licensee is a dealer of new recreational vehicles. Recreational vehicle dealers with multiple locations in Delaware may maintain a service facility at one location to satisfy this requirement.

Section 3. Amend Chapter 30, Title 30 of the Delaware Code by making insertions as shown by underlining and deletions as shown by strikethrough as follows:

§ 3005. ~~Motor v~~ Vehicle dealer license fee.

(a) Every ~~motor~~ vehicle dealer, including recreational vehicle dealers, shall pay an annual license fee of \$100 to the Department of Finance; ~~provided however, that no dealer license fee shall be applicable for out-of-state new recreational dealers at industry-wide public vehicle shows or exhibitions at enclosed malls in this State when such out-of-state new recreational dealers participate as exhibitors with permission of the licensed manufacturer; and further provided, that:~~

(1) Reciprocity is granted to such recreational dealers of this State; and

(2) ~~Providing that any participating out-of-state new recreational dealer is duly licensed and authorized by the state of residence to sell new recreational vehicles.~~

Section 4. Severability. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application and, to this end, the provisions of this Act are declared severable.

Section 5. Effective date. This act takes effect on July 1, 2013.

SYNOPSIS

This bill establishes requirements and definitions for recreational vehicle manufacturer-dealer agreements. It also removes the exception to the \$100 license fee for out-of-state recreational vehicle dealers at shows or exhibitions at enclosed malls. Finally, it updates the current Sale of Motor Vehicles laws to incorporate a new Recreational Vehicle Franchise law.