

CHAPTER 2025-38

Committee Substitute for Committee Substitute for House Bill No. 429

An act relating to motor vehicle manufacturers and franchised motor vehicle dealers; amending s. 320.64, F.S.; prohibiting an applicant or a licensee, or a common entity thereof, from establishing, implementing, or enforcing certain criteria for measuring the sales or service performance of its franchised motor vehicle dealers unless certain conditions are met; prohibiting an applicant or a licensee, or a common entity thereof, from engaging in an action that is taken as retaliation against a motor vehicle dealer under certain circumstances; amending s. 320.641, F.S.; revising the circumstances in which a discontinuation, cancellation, nonrenewal, modification, or replacement of a franchise agreement is deemed unfair; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (42) of section 320.64, Florida Statutes, is amended, and subsection (43) is added to that section, to read:

320.64 Denial, suspension, or revocation of license; grounds.—A license of a licensee under s. 320.61 may be denied, suspended, or revoked within the entire state or at any specific location or locations within the state at which the applicant or licensee engages or proposes to engage in business, upon proof that the section was violated with sufficient frequency to establish a pattern of wrongdoing, and a licensee or applicant shall be liable for claims and remedies provided in ss. 320.695 and 320.697 for any violation of any of the following provisions. A licensee is prohibited from committing the following acts:

(42)(a) The applicant or licensee, or a common entity thereof, has established, implemented, or enforced criteria for measuring the sales or service performance of any of its franchised motor vehicle dealers in this state which have a material or adverse effect on any motor vehicle dealer and which:

1. Are unfair, unreasonable, arbitrary, or inequitable; or
2. Do not include all relevant and material local and regional criteria, data, and facts. Relevant and material criteria, data, or facts include, but are not limited to, those of motor vehicle dealerships of comparable size in comparable markets. If such performance measurement criteria are based, in whole or in part, on a survey, such survey must be based on a statistically significant and valid random sample.

(b) The An applicant or, licensee, or a common entity thereof, has implemented or enforced criteria for measuring the sales or service

~~performance of any of its franchised motor vehicle dealers in this state without first making available and readily accessible, before such implementation or enforcement, a written description to each such franchised, or an affiliate thereof, which enforces against any motor vehicle dealer any such performance measurement criteria shall, upon the request of the motor vehicle dealer, describe in writing to the motor vehicle dealer in this state which describes, in detail, how the performance measurement criteria were designed, calculated, established, and uniformly applied.~~

(43) The applicant or licensee, or a common entity thereof, has engaged in an action, or implemented a policy, standard, rule, practice, or program, taken as retaliation against a motor vehicle dealer because the dealer invoked a statutory right created by ss. 320.60-320.70, asserted that the applicant, licensee, or common entity has acted in a manner that violates a provision of ss. 320.60-320.70, or has testified, assisted, or participated in any manner in an investigation, a proceeding, or a hearing that may directly affect the applicant, licensee, or common entity.

A motor vehicle dealer who can demonstrate that a violation of, or failure to comply with, any of the preceding provisions by an applicant or licensee will or may adversely and pecuniarily affect the complaining dealer, shall be entitled to pursue all of the remedies, procedures, and rights of recovery available under ss. 320.695 and 320.697.

Section 2. Subsection (3) of section 320.641, Florida Statutes, is amended to read:

320.641 Discontinuations, cancellations, nonrenewals, modifications, and replacement of franchise agreements.—

(3) Any motor vehicle dealer who receives a notice of intent to discontinue, cancel, not renew, modify, or replace may, within the 90-day notice period, file a petition or complaint for a determination of whether such action is an unfair or prohibited discontinuation, cancellation, nonrenewal, modification, or replacement. Agreements and certificates of appointment must shall continue in effect until final determination of the issues raised in such petition or complaint by the motor vehicle dealer. A discontinuation, cancellation, or nonrenewal of a franchise agreement is unfair if it is not clearly permitted by the franchise agreement; is not undertaken in good faith; is not undertaken for good cause; or is not based on a material and substantial ~~an alleged breach of the franchise agreement by the motor vehicle dealer which is not in fact a material and substantial breach~~; or, if the grounds relied upon for termination, cancellation, or nonrenewal have not been applied in a uniform and consistent manner by the licensee. If the notice of discontinuation, cancellation, or nonrenewal relates to an alleged failure of the new motor vehicle dealer's sales or service performance obligations under the franchise agreement, the new motor vehicle dealer must first be provided with at least 180 days to correct the alleged failure before a licensee may send the notice of discontinuation, cancellation, or nonrenewal. A modification or replacement is unfair if it is not clearly

permitted by the franchise agreement; is not undertaken in good faith; or is not undertaken for good cause. The applicant or licensee ~~has~~ shall have the burden of proof that such discontinuation, cancellation, nonrenewal, modification, or replacement ~~action~~ is fair and not prohibited.

Section 3. This act shall take effect July 1, 2025.

Approved by the Governor May 19, 2025.

Filed in Office Secretary of State May 19, 2025.