

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: Commerce Committee
 2 Representative Diaz, M. offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. Subsection (41) is added to section 320.64, Florida Statutes, 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

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17 provisions. A licensee is prohibited from committing the
18 following acts:

19 (41) Notwithstanding the terms of any franchise agreement,
20 and except as authorized under subsection (25), a licensee may
21 not deny a claim of a motor vehicle dealer, reduce the amount of
22 compensation to a motor vehicle dealer, or process a chargeback
23 to a motor vehicle dealer for performing covered warranty
24 repairs or required recall repairs on a used motor vehicle due
25 to either of the following circumstances:

26 (a) Discovery by the motor vehicle dealer of the need for
27 warranty or recall repairs during the course of a separate
28 repair requested by the consumer.

29 (b) Notification by the motor vehicle dealer to the
30 consumer of the need for recall repairs after the licensee or an
31 authorized governmental agency issues a notice of an outstanding
32 recall for a safety-related defect.

33
34 A motor vehicle dealer who can demonstrate that a violation of,
35 or failure to comply with, any of the preceding provisions by an
36 applicant or licensee will or can adversely and pecuniarily
37 affect the complaining dealer, shall be entitled to pursue all
38 of the remedies, procedures, and rights of recovery available
39 under ss. 320.695 and 320.697.

40 Section 2. Section 320.6407, Florida Statutes, is created
41 to read:

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42 320.6407 Recall notices under franchise agreements;
43 compensation.—

44 (1) As provided in subsection (3), a licensee that has
45 entered into a franchise agreement with a motor vehicle dealer
46 must compensate the motor vehicle dealer for a used motor
47 vehicle:

48 (a) That was originally manufactured, imported, or
49 distributed by the licensee;

50 (b) That is subject to a recall notice issued by the
51 licensee or an authorized governmental agency, regardless of
52 whether the vehicle is identified by its vehicle identification
53 number;

54 (c) That is held by the motor vehicle dealer in the
55 dealer's inventory at the time the recall notice is issued or
56 that is taken by the motor vehicle dealer into the dealer's
57 inventory after the recall notice as a result of a trade-in,
58 lease return, or otherwise;

59 (d) That cannot be repaired due to the unavailability,
60 within 30 days after issuance of the recall notice, of remedy or
61 parts necessary for the motor vehicle dealer to make the recall
62 repair; and

63 (e) For which the licensee has not issued a written
64 statement to the motor vehicle dealer indicating that the used
65 motor vehicle may be sold or delivered to a retail customer
66 before completion of the recall repair.

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67 (2) The licensee shall pay the required compensation
68 within 30 days after the motor vehicle dealer's application for
69 payment. Applications for compensation payments must be
70 submitted monthly, as necessary, through the licensee's existing
71 warranty application system or another system or process
72 established by the licensee which is not unduly burdensome or
73 which does not require information unnecessary for the payment.

74 (3) Compensation under this section must be the greater
75 of:

76 (a) Payment at a rate of at least 2 percent per month of
77 the motor vehicle value, as determined by the average Black Book
78 value of corresponding model year vehicle of average condition,
79 of each eligible used motor vehicle in the motor vehicle
80 dealer's inventory for each month that the dealer does not
81 receive a remedy or parts to complete the required repair. Such
82 payment must be prorated for any period less than a month based
83 on the number of days during the month each eligible used motor
84 vehicle is in the motor vehicle dealer's inventory. Payments
85 shall be calculated from the date the recall was issued or the
86 vehicle was acquired, whichever is later.

87 (b) Payment under a national program applicable to all
88 motor vehicle dealers holding a franchise agreement with the
89 licensee for the motor vehicle dealer's costs associated with
90 holding the eligible used motor vehicles.

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91 (4) For the purposes of this section, a licensee does not
92 include a motorcycle manufacturer, distributor, or importer.

93 Section 3. For the purpose of incorporating the amendment
94 made by this act to section 320.64, Florida Statutes, and
95 section 320.6407, Florida Statutes, as created by this act, in
96 references thereto, section 320.6992, Florida Statutes, is
97 reenacted to read:

98 320.6992 Application.—Sections 320.60-320.70, including
99 amendments to ss. 320.60-320.70, apply to all presently existing
100 or hereafter established systems of distribution of motor
101 vehicles in this state, except to the extent that such
102 application would impair valid contractual agreements in
103 violation of the State Constitution or Federal Constitution.
104 Sections 320.60-320.70 do not apply to any judicial or
105 administrative proceeding pending as of October 1, 1988. All
106 agreements renewed, amended, or entered into subsequent to
107 October 1, 1988, shall be governed by ss. 320.60-320.70,
108 including any amendments to ss. 320.60-320.70 which have been or
109 may be from time to time adopted, unless the amendment
110 specifically provides otherwise, and except to the extent that
111 such application would impair valid contractual agreements in
112 violation of the State Constitution or Federal Constitution.

113 Section 4. This act shall take effect upon becoming a law.
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T I T L E A M E N D M E N T

Remove everything before the enacting clause and insert:

A bill to be entitled

An act relating to motor vehicle warranty repairs and recall repairs; amending s. 320.64, F.S.; prohibiting a manufacturer, factory branch, distributor, or importer from denying a claim of a motor vehicle dealer, reducing compensation to a motor vehicle dealer, or processing a chargeback to a motor vehicle dealer because of specified circumstances; creating s. 320.6407, F.S.; requiring a manufacturer, factory branch, distributor, or importer to compensate a motor vehicle dealer for a used motor vehicle under specified circumstances; requiring the manufacturer, factory branch, distributor, or importer to pay the compensation within a specified timeframe after the motor vehicle dealer's application for payment; requiring such application to be made through the manufacturer's, factory branch's, distributor's, or importer's warranty application system or certain other system or process; providing for calculation of the amount of compensation; reenacting s. 320.6992, F.S., relating to applicability of specified provisions to systems of distribution of motor vehicles in this state, to incorporate s. 320.6407, F.S., as created by the act, in references thereto; providing an effective date.