

SENATE BILL NO. 175

BY SENATOR APPEL

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AN ACT

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

Be it enacted by the Legislature of Louisiana:

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

§1261. Unauthorized acts

It shall be a violation of this Chapter:

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

\* \* \*

**(x) To charge back, deny vehicle allocation, withhold payments, or take 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**

1 that the new motor vehicle was to be exported. A motor vehicle dealer shall be  
 2 rebuttably presumed to have no knowledge of the export if the motor vehicle is  
 3 sold by the dealer to a resident of the United States who titles and registers the  
 4 motor vehicle in any state within the United States.

5 \* \* \*

6 §1268. Requirements upon termination; penalty; indemnity

7 A.(1) In the event the licensee ceases to engage in the business of being a  
 8 motor vehicle, recreational products, or specialty vehicle dealer, or ceases to sell a  
 9 particular make of motor vehicle, recreational product, or specialty vehicle and after  
 10 notice to the manufacturer, converter, distributor, or representative by certified mail  
 11 or commercial delivery service with verification of receipt, within thirty days of the  
 12 receipt of the notice by the manufacturer, converter, distributor, or representative, the  
 13 manufacturer, converter, distributor, or representative shall repurchase:

14 (a) All new motor ~~vehicle~~ **vehicles**, recreational ~~product~~ **products**, and  
 15 specialty vehicles of the current and last prior model year delivered to the licensee  
 16 and parts on hand **purchased in the ordinary course of business** that have not been  
 17 damaged or substantially altered to the prejudice of the manufacturer while in the  
 18 possession of the licensee. As to recreational products dealers, the repurchase of  
 19 parts shall be limited to those listed in the manufacturer's price book. The motor  
 20 ~~vehicle~~ **vehicles**, recreational ~~product~~ **products**, and specialty vehicles and parts  
 21 shall be repurchased at the cost to the licensee which shall include without limitation  
 22 freight and advertising costs, less all allowances paid to the dealer, except that new  
 23 automobiles shall be purchased on the schedule as follows:

24 \* \* \*

25 (c) At fair market value, all special tools and automotive service equipment  
 26 owned by the dealer which were recommended in writing and designated as special  
 27 tools and equipment and purchased **in the ordinary course of business** from or  
 28 ~~purchased~~ at the request of the manufacturer, converter, distributor, or representative,  
 29 if the tools and equipment are in usable and good condition except for reasonable  
 30 wear and tear. Fair market value shall be no less than cost of acquisition of special

1 tools and automotive service equipment by the dealer.

2 \* \* \*

3 ~~(2)(a) The manufacturer or converter shall make the required repurchase after~~  
4 ~~the dealer terminates his franchise and within thirty days for motor and speciality~~  
5 ~~vehicle dealers and sixty days for recreational products dealers of the submission to~~  
6 ~~it, by certified mail, return receipt requested, or commercial delivery service with~~  
7 ~~verification of receipt, of a final inventory of motor vehicles and parts on hand.~~

8 **After a motor vehicle dealer terminates his franchise, the manufacturer or**  
9 **converter shall make required repurchases within thirty days after such dealer**  
10 **has satisfied all of the following conditions:**

11 **(i) The motor vehicle dealer submits to the manufacturer, by certified**  
12 **mail, return receipt requested, or commercial delivery service with verification**  
13 **of receipt, a final inventory of motor vehicles and parts, special tools, and**  
14 **automotive services on hand.**

15 **(ii) The motor vehicle dealer tenders the parts, special tools, and**  
16 **automotive service equipment to the manufacturer.**

17 **(b) After a specialty vehicle dealer terminates his franchise, the**  
18 **manufacturer or converter shall make required repurchases within thirty days**  
19 **after such dealer has submitted to the manufacturer by certified mail, return**  
20 **receipt requested, or commercial delivery service with verification of receipt,**  
21 **a final inventory of vehicles and parts on hand.**

22 **(c) After a recreational products dealer terminates his franchise, the**  
23 **manufacturer or converter shall make required repurchases within sixty days**  
24 **after such dealer has submitted to the manufacturer by certified mail, return**  
25 **receipt requested, or commercial delivery service with verification of receipt,**  
26 **a final inventory of vehicles and parts on hand. This Subparagraph shall not**  
27 **apply to the repurchase of marine products and related items.**

28 B. Failure to make such repurchase without just cause shall subject the  
29 manufacturer or converter to a penalty of one and one-half percent per month, or  
30 fraction thereof, of the inventory value or returnable recreational product, ~~speciality~~

1           specialty and motor vehicles, and parts, signs, special tools, and automotive service  
2           equipment, payable to the dealer, as long as the repurchase is not made.

3   \*           \*           \*

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PRESIDENT OF THE SENATE

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_