

HOUSE BILL No. 6617

November 6, 2008, Introduced by Rep. Sheltrown and referred to the Committee on Tourism,
Outdoor Recreation and Natural Resources.

A bill to regulate recreational vehicle dealers,
manufacturers, wholesalers, warrantors, and their representatives;
to regulate dealings between recreational vehicle manufacturers,
wholesalers, warrantors, and dealers; to regulate dealings between
consumers and recreational vehicle manufacturers, wholesalers,
warrantors, and dealers; to prohibit certain trade practices; to
provide for the powers and duties of certain state and local
governmental officers and entities; and to provide remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "recreational vehicle franchise act".

3 Sec. 3. As used in this act:

4 (a) "Area of sales responsibility" means a geographical area

1 agreed to by a dealer and the manufacturer in a dealer agreement in
2 which the dealer has the exclusive right to display or sell the
3 manufacturer's new recreational vehicles of a particular line-make
4 to the public.

5 (b) "Dealer" means a person that is a dealer, as that term is
6 defined in section 11 of the Michigan vehicle code, 1949 PA 300,
7 MCL 257.11, and is licensed as a dealer of recreational vehicles
8 under that act.

9 (c) "Dealer agreement" means a written agreement or contract
10 entered into between a manufacturer and a dealer that establishes
11 the legal rights and obligations of the parties to that agreement
12 or contract and pursuant to which the dealer is authorized to sell
13 new recreational vehicles manufactured or distributed by the
14 manufacturer.

15 (d) "Department" means the department of state.

16 (e) "Factory campaign" means an effort by a warrantor to
17 contact recreational vehicle owners or dealers in order to address
18 an issue concerning a problem or defective part or equipment.

19 (f) "Family member" means any of the following:

20 (i) A spouse of an individual.

21 (ii) A child, grandchild, parent, sibling, niece, or nephew of
22 an individual.

23 (iii) The spouse of a child, grandchild, parent, sibling, niece,
24 or nephew of an individual.

25 (g) "Line-make" means a specific series of recreational
26 vehicle products that meet all of the following:

27 (i) Are identified by a common series trade name or trademark.

1 (ii) Are targeted to a particular market segment based on their
2 decor, features, equipment, size, weight, and price range.

3 (iii) Have dimensions and interior floor plans that distinguish
4 the recreational vehicles from recreational vehicles that have
5 substantially the same decor, features, equipment, weight, and
6 price.

7 (iv) Belong to a single, distinct classification of
8 recreational vehicle product type that has a substantial degree of
9 commonality in the construction of the chassis, frame, and body.

10 (h) "Manufacturer" means a person that manufactures or
11 wholesales recreational vehicles or that distributes or wholesales
12 recreational vehicles to dealers.

13 (i) "Park model trailer" means that term as defined in section
14 38a of the Michigan vehicle code, 1949 PA 300, MCL 257.38a.

15 (j) "Person" means an individual, partnership, corporation,
16 limited liability company, association, trust, estate, or other
17 legal entity.

18 (k) "Proprietary part" means a recreational vehicle part
19 manufactured by or for and sold exclusively by a manufacturer.

20 (l) "Public vehicle show" means a recreational vehicle show
21 that meets the requirements of section 248(10) of the Michigan
22 vehicle code, 1949 PA 300, MCL 257.248.

23 (m) "Recreational vehicle" means that term as defined in
24 section 49a of the Michigan vehicle code, 1949 PA 300, MCL 257.49a,
25 except a park model trailer.

26 (n) "Transient customer" means a person who owns a
27 recreational vehicle, is temporarily traveling through a dealer's

1 area of sales responsibility, and engages the dealer to perform
2 service work on that recreational vehicle.

3 (o) "Warrantor" means a manufacturer or any other person that
4 provides a warranty to the consumer in connection with a new
5 recreational vehicle or parts, accessories, or components of a new
6 recreational vehicle. The term does not include a person that
7 provides a service contract, mechanical or other insurance, or an
8 extended warranty sold for separate consideration by a dealer or
9 other person not controlled by a manufacturer.

10 Sec. 5. (1) A manufacturer shall not sell a recreational
11 vehicle in the state to or through a dealer unless the manufacturer
12 has a dealer agreement with the dealer that meets the requirements
13 of this act and is signed by both parties.

14 (2) Except as provided in subsection (4), a dealer shall not
15 sell a new recreational vehicle in this state unless the dealer has
16 a dealer agreement with a manufacturer of that recreational vehicle
17 that meets the requirements of this act and is signed by both
18 parties.

19 (3) All of the following apply to a dealer's area of sales
20 responsibility included in a dealer agreement between a
21 manufacturer and a dealer:

22 (a) The manufacturer shall designate in the dealer agreement
23 the area of sales responsibility exclusively assigned to the
24 dealer.

25 (b) The manufacturer shall not change the dealer's area of
26 sales responsibility or establish another dealer for the same line-
27 make in that area during the term of the dealer agreement.

1 (c) if the dealer enters into an agreement to sell any
2 recreational vehicles that compete with the recreational vehicles
3 included in the dealer agreement, or enters into an agreement to
4 increase a preexisting commitment to sell any recreational vehicles
5 that compete with the recreational vehicles included in the dealer
6 agreement, while the dealer agreement is in place, the manufacturer
7 may revise the dealer's area of sales responsibility if both of the
8 following are met:

9 (i) The dealer agreement does not authorize or permit the
10 dealer to enter into that subsequent agreement.

11 (ii) If, in the reasonable opinion of the manufacturer, the
12 market penetration of the manufacturer's products is jeopardized by
13 that subsequent agreement.

14 (d) The area of sales responsibility is not subject to review
15 or change in the 1-year period after the date of the first delivery
16 of new recreational vehicles to the dealer under the initial dealer
17 agreement.

18 (4) A dealer may sell recreational vehicles outside of its
19 designated area of sales responsibility if all of the following are
20 met:

21 (a) If required under section 248(10) of the Michigan vehicle
22 code, 1949 PA 300, MCL 257.248, the dealer has obtained a separate
23 or supplemental license to sell those recreational vehicles.

24 (b) The sales meet 1 of the following:

25 (i) If the sales are off-premises sales that takes place at a
26 location in another dealer's designated area of sales
27 responsibility, the dealer obtains in advance of the off-premises

1 sales a written agreement that meets all of the following:

2 (A) Is signed by the dealer, the manufacturer of the
3 recreational vehicles the dealer intends to sell at that location,
4 and the other dealer.

5 (B) Designates the recreational vehicles to be offered for
6 sale.

7 (C) Includes the time period for the off-premises sales.

8 (D) Affirmatively authorizes the sale of the designated
9 recreational vehicles.

10 (ii) The sales are off-premises sales that take place at a
11 location that is not in another dealer's same line-make designated
12 area of sales responsibility.

13 (iii) The sales are off-premises sales that take place in
14 conjunction with a public vehicle show in which more than 4 dealers
15 are participating and that is predominantly funded by manufacturers
16 or sponsored by a recreational vehicle trade association.

17 (5) A dealer agreement must include a designated principal of
18 the dealer.

19 (6) For purposes of section 15, a dealer agreement may
20 identify a family member as the successor of the principal
21 designated under subsection (5) or include that principal's
22 succession plan. A dealer may at any time change a designation or
23 succession plan made in the dealer agreement by providing written
24 notice to the manufacturer.

25 Sec. 7. (1) A manufacturer shall from time to time publish its
26 prices, charges, and terms of sale for recreational vehicles and
27 may only sell a recreational vehicle to a dealer in accordance with

1 the published prices, charges, and terms of sale in effect at the
2 time of sale.

3 (2) If a manufacturer offers a dealer a rebate, discount, or
4 program on any recreational vehicles, the manufacturer must offer
5 the same rebate, discount, or program to every similarly situated
6 dealer.

7 (3) In a renewal of a dealer agreement, the manufacturer may
8 not impose on the dealer additional inventory stocking requirements
9 or retail sales targets in excess of market growth in the dealer's
10 area of sales responsibility.

11 Sec. 9. (1) A manufacturer, directly or through any officer,
12 agent, or employee, may not terminate or not renew a dealer
13 agreement without good cause.

14 (2) A manufacturer has the burden of showing good cause for
15 terminating or not renewing a dealer agreement. All of the
16 following factors must be considered in determining whether there
17 is good cause for a proposed termination or nonrenewal of a dealer
18 agreement by a manufacturer:

19 (a) The extent of the dealer's penetration in the relevant
20 market area.

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

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

25 (d) The effect of the proposed action on the community.

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

1 (f) Whether the dealer fails to follow agreed-upon procedures
2 or standards related to the overall operation of the dealership.

3 (g) The dealer's performance under the terms of dealer
4 agreement.

5 (3) Except as otherwise provided in this section, a
6 manufacturer shall provide a dealer with written notice of a
7 termination or nonrenewal of a dealer agreement. All of the
8 following apply to a notice described in this subsection:

9 (a) Except as provided in subdivision (d) or (e), the
10 manufacturer shall provide the notice at least 90 days before the
11 effective date of the termination or nonrenewal.

12 (b) The notice shall state all of the reasons for the
13 termination or nonrenewal.

14 (c) The notice shall state that if the dealer provides to the
15 manufacturer a written notification of intent to cure all claimed
16 deficiencies within 30 days after the dealer receives the notice,
17 the dealer has 30 days after the date of the notice to correct the
18 deficiencies. If all of the deficiencies are corrected within that
19 30-day period, the notice is void and the manufacturer may not
20 terminate or not renew the dealer agreement because of the
21 deficiencies stated in the notice. If the dealer does not provide a
22 notification of intent to cure deficiencies in that 30-day period,
23 the termination or nonrenewal takes effect 90 days after the dealer
24 received the notice.

25 (d) A manufacturer may reduce the notice period described in
26 subdivision (a) to 10 days, and is not required to allow the dealer
27 an opportunity to correct the deficiencies, if the manufacturer's

1 grounds for termination or nonrenewal are any of the specific
2 categories of good cause described in subsection (4)(a) to (e).

3 (e) A manufacturer is not required to provide notice or an
4 opportunity to correct deficiencies under this subsection if the
5 manufacturer's grounds for termination or nonrenewal is that the
6 dealer becomes insolvent, is bankrupt, or makes an assignment for
7 the benefit of creditors.

8 (4) If a manufacturer terminates or does not renew a dealer
9 agreement for good cause under this section, the manufacturer at
10 its option may repurchase any of the following from the dealer:

11 (a) All new, untitled recreational vehicles that were acquired
12 from the manufacturer within 12 months before the effective date of
13 the notice of termination that have not been used, except for
14 demonstration purposes, and that have not been altered or damaged,
15 at 100% of the net invoice cost of the recreational vehicles,
16 including transportation, less applicable rebates and discounts to
17 the dealer.

18 (b) All current and undamaged accessories and proprietary
19 parts sold to the dealer for resale within the 12 months before the
20 effective date of the termination that are accompanied by the
21 original invoice, at 105% of the original net price paid to the
22 manufacturer to compensate the dealer for handling, packing, and
23 shipping the accessories and parts.

24 (c) Any properly functioning diagnostic equipment, special
25 tools, current signage, and other equipment and machinery,
26 purchased by the dealer within the 5 years before the effective
27 date of the termination at the manufacturer's request, if it cannot

1 be used in the normal course of the dealer's ongoing business, at
2 100% of the dealer's net cost, plus freight, destination, delivery,
3 and distribution charges and sales taxes.

4 (5) The dealer shall promptly return or arrange for the return
5 of all of the items the manufacturer elects to repurchase under
6 subsection (4) at the manufacturer's expense and the manufacturer
7 shall pay all of the amounts owed to the dealer under subsection
8 (4) to the dealer within 30 days after it receives the returned
9 items.

10 (6) As used in this section, "good cause" includes, but is not
11 limited to, any of the following:

12 (a) Conviction of, or plea of nolo contendere by, a dealer or
13 an owner of a dealer to a felony.

14 (b) Abandonment or closing the business operations of a dealer
15 for 10 consecutive business days unless the closing is due to an
16 act of God, strike, labor difficulty, or other cause over which the
17 dealer has no control.

18 (c) A material misrepresentation to a manufacturer by a
19 dealer.

20 (d) Suspension or revocation of a dealer's license, or refusal
21 to renew a dealer's license, by the department.

22 (e) A material violation of this act by a dealer that is not
23 cured within 30 days after written notice of the violation by a
24 manufacturer.

25 (f) The dealer becomes insolvent, is bankrupt, or makes an
26 assignment for the benefit of creditors.

27 Sec. 11. (1) A dealer may not terminate a dealer agreement

1 without good cause. A dealer that terminates a dealer agreement
2 shall provide the manufacturer with written notice at least 90 days
3 before the effective date of the termination.

4 (2) All of the following apply to a termination of a dealer
5 agreement under this section for good cause:

6 (a) The notice described in subsection (1) shall state all
7 reasons for the proposed termination.

8 (b) The notice described in subsection (1) shall state that if
9 the manufacturer provides to the dealer a written notification of
10 intent to cure all claimed deficiencies within 30 days after the
11 manufacturer receives the notice, the manufacturer has 90 days
12 after the date of the notice to correct the deficiencies. If all of
13 the deficiencies are corrected within that 90-day period, the
14 notice is void and the dealer may not terminate the dealer
15 agreement because of the deficiencies stated in the notice. If the
16 manufacturer does not provide a notification of intent to cure
17 deficiencies in that 90-day period, the termination takes effect 30
18 days after the manufacturer received the notice.

19 (c) The dealer has the burden of showing good cause. Each of
20 the following is considered good cause for a proposed termination
21 of a dealer agreement by a dealer:

22 (i) Conviction of, or plea of nolo contendere by, the
23 manufacturer to a felony.

24 (ii) Abandonment or closing the business operations of the
25 manufacturer for 10 consecutive business days unless the closing is
26 due to an act of God, strike, labor difficulty, or other cause over
27 which the manufacturer has no control.

1 (iii) A material misrepresentation to the dealer by the
2 manufacturer that affects the business relationship between the
3 dealer and manufacturer.

4 (iv) A material violation of this act by the manufacturer that
5 is not cured within 30 days after written notice of the violation
6 by the dealer.

7 (v) A material breach of the dealer agreement by the
8 manufacturer.

9 (vi) The manufacturer becomes insolvent, is bankrupt, or makes
10 an assignment for the benefit of creditors.

11 (d) If the manufacturer fails to cure any claimed deficiencies
12 under subdivision (b), the dealer may require that the manufacturer
13 repurchase any of the following from the dealer:

14 (i) All new, untitled recreational vehicles that were acquired
15 from the manufacturer within 12 months before the effective date of
16 the notice of termination that have not been used, except for
17 demonstration purposes, and that have not been altered or damaged,
18 at 100% of the net invoice cost of the recreational vehicles,
19 including transportation, less applicable rebates and discounts to
20 the dealer.

21 (ii) All current and undamaged accessories and proprietary
22 parts sold to the dealer for resale within the 12 months before the
23 effective date of the termination that are accompanied by the
24 original invoice, at 105% of the original net price paid to the
25 manufacturer to compensate the dealer for handling, packing, and
26 shipping the accessories and parts.

27 (iii) Any properly functioning diagnostic equipment, special

1 tools, current signage, and other equipment and machinery,
2 purchased by the dealer within the 5 years before the effective
3 date of the termination at the manufacturer's request, if it cannot
4 be used in the normal course of the dealer's ongoing business, at
5 100% of the dealer's net cost, plus freight, destination, delivery,
6 and distribution charges and sales taxes.

7 (e) The dealer shall promptly return or arrange for the return
8 of all of the items the manufacturer is required to repurchase
9 under subdivision (d) at the manufacturer's expense and the
10 manufacturer shall pay all of the amounts owed to the dealer under
11 subdivision (d) to the dealer within 30 days after it receives the
12 returned items.

13 Sec. 13. The department may not prohibit a dealer from selling
14 a particular line-make after a dealer agreement has been terminated
15 or not renewed under section 9 or 11. If recreational vehicles of a
16 line-make are not returned or required to be returned to the
17 manufacturer, the dealer may continue to sell all line-makes that
18 were subject to the dealer agreement and are currently in stock
19 until those line-makes are no longer in the dealer inventory.

20 Sec. 15. (1) All of the following apply to a proposed sale of
21 the business assets, transfer of the stock, or other transaction
22 that will result in a change of ownership of a dealer, except a
23 transaction described in subsection (2):

24 (a) The dealer must provide written notice to the manufacturer
25 at least 90 days before the proposed closing of the transaction.
26 The notice shall include complete copies of all documentation of
27 the proposed transaction and any other documentation reasonably

1 requested by the manufacturer in order to determine if it will make
2 an objection to the transaction.

3 (b) If the dealer is not in breach of the dealer agreement or
4 in violation of this act at the time it provides the notice
5 described in subdivision (a), the manufacturer shall not object to
6 the proposed transaction unless the prospective transferee meets 1
7 or more of the following:

8 (i) It previously was a party to a dealer agreement with the
9 manufacturer that the manufacturer terminated.

10 (ii) Was previously convicted of a felony or any crime of
11 fraud, deceit, or moral turpitude.

12 (iii) Does not have any license required by law to conduct
13 business as a dealer in this state.

14 (iv) Does not have an active line of credit sufficient to
15 purchase recreational vehicles from the manufacturer according to
16 the terms of the dealer agreement.

17 (v) In the preceding 10 years, was bankrupt or insolvent, made
18 a general assignment for the benefit of creditors, or a receiver,
19 trustee, or conservator was appointed to take possession of the
20 transferee's business or property.

21 (c) If the manufacturer objects to the proposed transaction,
22 the manufacturer shall give written notice of its objection,
23 including its reasons for objecting, to the dealer within 30 days
24 after receiving the notice described in subdivision (a). If the
25 manufacturer does not give notice of its objection within that 30-
26 day period, the proposed transaction is considered approved by the
27 manufacturer.

1 (d) For purposes of subdivision (c), the manufacturer has the
2 burden of demonstrating its objection to the proposed transaction.

3 (2) All of the following apply concerning the death,
4 incapacity, or retirement of the designated principal of a dealer:

5 (a) The manufacturer must provide the dealer an opportunity to
6 designate, in writing, a family member as a successor to the dealer
7 in the event of the death, incapacity, or retirement of the
8 designated principal.

9 (b) The manufacturer shall not prevent or refuse to honor the
10 succession to a dealership by a family member of the deceased,
11 incapacitated, or retired designated principal of that dealer
12 unless the manufacturer had provided written notice to the dealer
13 of any objections to the dealer's succession plan within 30 days
14 after receiving the dealer's succession plan or any modification of
15 the dealer's succession plan.

16 (c) Except as provided in subdivision (e), unless the dealer
17 is in breach of the dealer agreement, a manufacturer shall not
18 object to the succession to a dealership by a family member of the
19 deceased, incapacitated, or retired designated principal unless the
20 successor meets 1 or more of the following:

21 (i) Was previously convicted of a felony or any crime of fraud,
22 deceit, or moral turpitude.

23 (ii) In the preceding 10 years, was bankrupt, insolvent, or
24 made an assignment for the benefit of creditors.

25 (iii) Was previously a party to a dealer agreement with the
26 manufacturer that the manufacturer terminated for a breach of a
27 dealer agreement.

1 (iv) Does not have an active line of credit sufficient to
2 purchase recreational vehicles from the manufacturer according to
3 the terms of the dealer agreement.

4 (v) Does not have any license required by law to conduct
5 business as a dealer in this state.

6 (d) The manufacturer has the burden of proof regarding any
7 objection to the succession to a dealership by a family member of
8 the deceased, incapacitated, or retired designated principal.

9 (e) The manufacturer's consent is required for the succession
10 to a dealership by a family member of the deceased, incapacitated,
11 or retired designated principal if the succession involves a
12 relocation of the business or an alteration of the terms and
13 conditions of the dealer agreement.

14 Sec. 17. (1) A warrantor has all of the following obligations
15 to each dealer engaged in the sale or lease of products that are
16 covered by a warranty from that warrantor:

17 (a) To specify in writing to the dealer the dealer's
18 obligations, if any, for preparation, delivery, and warranty
19 service on its products.

20 (b) To compensate the dealer for warranty service required of
21 the dealer by the warrantor.

22 (c) To provide the dealer with a schedule of compensation the
23 warrantor will pay for warranty work and the warrantor's time
24 allowances for the performance of that work. All of the following
25 apply to the schedule of compensation required under this
26 subdivision:

27 (i) It must include reasonable compensation for diagnostic work

1 and warranty labor.

2 (ii) Time allowances in the schedule for the diagnosis and
3 performance of warranty labor must be reasonable for the work to be
4 performed.

5 (iii) The compensation of a dealer for warranty labor shall
6 equal or exceed the lowest retail labor rates actually charged by
7 the dealer for similar nonwarranty labor if those rates are
8 consistent with the actual wage rates paid by the dealer and the
9 actual retail labor rates charged by the dealer in the community in
10 which the dealer is doing business.

11 (d) To reimburse the dealer for warranty parts at actual
12 wholesale cost, plus a minimum 30% handling charge and any freight
13 costs to return warranty parts to the warrantor.

14 (e) To deny dealer claims for warranty compensation only for
15 cause, including, but not limited to, performance of nonwarranty
16 repairs, material noncompliance with the warrantor's published
17 policies and procedures, lack of material documentation of claims,
18 fraud, or misrepresentation.

19 (2) A warrantor may conduct audits of the records of a dealer
20 that sells or leases its warranted products on a reasonable basis.

21 (3) A dealer shall submit warranty claims to a warrantor
22 within 45 days after completing warranty work on a warranted
23 product.

24 (4) A dealer shall immediately notify the warrantor orally or
25 in writing if the dealer is unable to perform warranty repairs on a
26 warranted product as soon as is reasonably possible, but not later
27 than 10 business days after the delivery of the recreational

1 vehicle to the dealer for warranty repair. A warrantor that
2 receives a notification from a dealer under this subsection shall
3 make arrangements for another dealer or repair facility to perform
4 the warranty repairs identified by the dealer in the notification
5 within 10 business days after receiving the notification.

6 (5) A warrantor shall approve or disapprove a warranty claim
7 on a warranted product in writing within 30 days after the date the
8 dealer submits the claim, if the claim is submitted in the manner
9 and in the form prescribed by the warrantor. If a claim that is
10 properly submitted is not specifically disapproved in writing by a
11 warrantor within that 30-day period, the claim is considered
12 approved by the warrantor and the warrantor shall pay the amount of
13 the claim to the dealer within 45 days after the dealer submitted
14 the claim.

15 Sec. 19. (1) A warrantor shall not do any of the following:

16 (a) Fail to perform all of its warranty obligations with
17 respect to a warranted product.

18 (b) In any written notice of a factory campaign to
19 recreational vehicle owners and dealers, fail to include the
20 expected date by which necessary parts and equipment, including
21 tires and chassis or chassis parts if required, will be available
22 to dealers to perform the campaign work. The warrantor shall
23 provide sufficient parts to the dealer to perform the campaign
24 work. If the number of parts provided to the dealer under this
25 subdivision exceed the dealer's requirements to perform the
26 campaign work, the dealer may return unused parts to the warrantor
27 for credit after completion of the campaign.

1 (c) Subject to section 23, fail to compensate a dealer for
2 authorized repairs of warranted products damaged during the
3 manufacturing process, or damaged while in transit to the dealer if
4 the warrantor selected the carrier.

5 (d) Fail to compensate a dealer for authorized warranty
6 service under this section in accordance with the applicable
7 schedule of compensation provided to the dealer under section 17 if
8 the warranty service is performed in a timely and competent manner.

9 (e) Intentionally misrepresent in any way to a purchaser of a
10 warranted product that any warranty concerning the manufacture,
11 performance, or design of the warranted product is made by the
12 dealer either as a warrantor or co-warrantor.

13 (f) Require a dealer to make warranties to customers in any
14 manner related to the manufacture of a warranted product.

15 (2) A warrantor shall indemnify the dealer for any money paid
16 or costs incurred by a warrantor in connection with a claim or
17 cause of action asserted against the dealer, to the extent that
18 payment or those costs are based on the negligence or intentional
19 conduct of the warrantor. A warrantor may not limit the obligation
20 to indemnify described in this subsection by agreement with the
21 dealer. The dealer shall provide a warrantor with a copy of any
22 claim or complaint in which an allegation described in this
23 subsection is made within 10 days after receiving that claim or
24 complaint.

25 (3) As used in this section and section 21:

26 (a) "Products" mean new recreational vehicles or parts,
27 accessories, or components of new recreational vehicles.

1 (b) "Warranted products" mean products subject to a warranty
2 from a specific warrantor.

3 Sec. 21. (1) A dealer shall not do any of the following:

4 (a) Fail to perform predelivery inspection of products, if
5 required, in a competent and timely manner.

6 (b) If a transient customer requests service work on a
7 recreational vehicle of a line-make that the dealer is authorized
8 to display and sell, fail to perform any warranty service work
9 authorized by a warrantor in a reasonably competent and timely
10 manner without good cause.

11 (c) Make a fraudulent warranty claim to a warrantor.

12 (d) Misrepresent the terms of any warranty.

13 (2) A dealer shall indemnify a warrantor for any money paid or
14 costs incurred by a dealer in connection with a claim or cause of
15 action asserted against the warrantor, to the extent that payment
16 or those costs are based on the negligence or intentional conduct
17 of the dealer. The warrantor shall provide a dealer with a copy of
18 any claim or complaint in which an allegation described in this
19 subsection is made within 10 days after receiving that claim or
20 complaint.

21 Sec. 23. (1) All of the following apply if a new recreational
22 vehicle is damaged before it is shipped to a dealer, or is damaged
23 in transit to the dealer and the manufacturer selected the carrier
24 or means of transportation:

25 (a) The dealer shall notify the manufacturer of the damage
26 within the time period specified in the dealer agreement and do 1
27 of the following:

1 (i) In the notice, request authorization to replace the
2 components, parts, and accessories damaged, or otherwise correct
3 the damage, from the manufacturer.

4 (ii) Reject the recreational vehicle within the time period
5 specified in the dealer agreement.

6 (b) If the manufacturer refuses or fails to authorize repair
7 of the damage within 10 days after receiving notice under
8 subdivision (a), or if the dealer rejects the recreational vehicle
9 because of the damage within the time period specified in the
10 dealer agreement, ownership of the recreational vehicle reverts to
11 the manufacturer.

12 (c) The dealer shall exercise due care in the custody of the
13 damaged recreational vehicle, but the dealer has no financial or
14 other obligation with respect to that recreational vehicle.

15 (2) A dealer agreement shall include a time period for
16 inspection and rejection of damaged recreational vehicles under
17 subsection (1) that is not less than 2 business days after the
18 physical delivery of the recreational vehicle to the dealer.

19 (3) If a dealer determines that a new recreational vehicle has
20 an unreasonable number of miles on its odometer at the time it is
21 delivered to the dealer, the dealer may reject that recreational
22 vehicle and ownership of the recreational vehicle reverts to the
23 manufacturer. However, if the number of miles on the odometer is
24 less than the sum of the distance between the dealer and the
25 manufacturer's factory or point of distribution plus 100 miles, the
26 dealer may not consider the number of miles on the odometer
27 unreasonable for purposes of this subsection.

1 Sec. 25. (1) A manufacturer may not coerce or attempt to
2 coerce a dealer to purchase a product or service that the dealer
3 did not order.

4 (2) A manufacturer may not coerce or attempt to coerce a
5 dealer to enter into any agreement with the manufacturer.

6 (3) A manufacturer may not coerce or attempt to coerce a
7 dealer to enter into an agreement with the manufacturer or any
8 other person that requires the dealer to submit its disputes to
9 binding arbitration or otherwise waive its rights or
10 responsibilities under this act.

11 (4) As used in this section, the term "coerce" includes, but
12 is not limited to, threatening to terminate or not renew a dealer
13 agreement without good cause; threatening to withhold line-makes or
14 other product lines the dealer is entitled to display and sell
15 under the dealer agreement; or delay delivery of recreational
16 vehicles as an inducement to amend the dealer agreement.

17 Sec. 27. (1) A dealer, manufacturer, or warrantor injured by
18 another party's violation of this act may bring a civil action in
19 circuit court to recover its actual damages. The court shall award
20 attorney's fees and costs to the prevailing party in a civil action
21 under this section.

22 (2) The venue for a civil action under this section involving
23 1 dealer is the county in which the dealer's business is located.
24 In an action involving more than 1 dealer, any county in which the
25 business of any dealer that is party to the action is located is a
26 proper venue for that action.

27 (3) Before bringing a civil action under this section, the

1 party bringing suit for an alleged violation of this act shall
2 serve a written demand for mediation on the offending party. The
3 demand for mediation shall include a brief statement of the dispute
4 and the relief sought by the party making the demand. The party
5 making the demand for mediation shall serve the demand by certified
6 mail to 1 of the following addresses:

7 (a) In an action between a dealer and a manufacturer, the
8 address stated in the dealer agreement between the parties.

9 (b) In an action between a dealer and a warrantor that is not
10 a manufacturer, the address stated in any agreement between the
11 parties.

12 (c) In an action between 2 dealers, the address of the
13 offending dealer in the records of the department.

14 (4) Within 20 days after a demand for mediation is served
15 under subsection (3), the parties shall mutually select an
16 independent mediator who is approved by the department, and meet
17 with that mediator for the purpose of attempting to resolve the
18 dispute at a location in this state selected by the mediator. The
19 mediator may extend the date of the meeting for good cause shown by
20 either party or if the parties agree to the extension.

21 (5) The service of a demand for mediation under subsection (3)
22 tolls the time for the filing of any complaint, petition, protest,
23 or other action under this act until representatives of both
24 parties have met with the mediator selected under subsection (4)
25 for the purpose of attempting to resolve the dispute. If a
26 complaint, petition, protest, or other action is filed before that
27 meeting, the court shall enter an order suspending the proceeding

1 or action until the mediation meeting has occurred and may, if all
2 of the parties to the proceeding or action stipulate in writing
3 that they wish to continue to mediate under this section, enter an
4 order suspending the proceeding or action for as long a period as
5 the court considers appropriate. The court may modify, extend, or
6 revoke a suspension order issued under this subsection if it
7 considers that action appropriate.

8 (6) Each of the parties to the mediation under this section is
9 responsible for its own attorney fees. The parties shall equally
10 divide the cost of the mediator.

11 Sec. 29. (1) In addition to any remedy available under this
12 act or otherwise available by law, a manufacturer, warrantor, or
13 dealer may apply to a circuit court for the grant, after a hearing
14 and for cause shown, of a temporary or permanent injunction or
15 other equitable relief restraining any person from doing any of the
16 following:

17 (a) Acting as a dealer without a proper license.

18 (b) Violating or continuing to violate this act. A single
19 violation of this act is a sufficient basis for the court to grant
20 equitable relief under this section.

21 (c) Failing or refusing to comply with any requirement of this
22 act.

23 (2) The court may not require a bond as a condition to the
24 grant of equitable relief under this section.

25 Enacting section 1. This act takes effect July 1, 2009.

26 Enacting section 2. This act does not take effect unless
27 Senate Bill No. _____ or House Bill No. 6616 (request no.

1 08275'08 *) of the 94th Legislature is enacted into law.