

2016 Regular Session

SENATE BILL NO. 158

BY SENATOR CORTEZ

BOATS/BOATING. Provides relative to marine products. (8/1/16)

1 AN ACT

2 To amend and reenact R.S. 32:1252(27), the introductory paragraph of R.S. 32:1253(A)(1),  
3 the introductory paragraph of R.S. 32:1261(A)(1)(k)(i), and R.S. 32:1270.1(1)(i)  
4 relative to marine products; to provide relative to the definition of marine product;  
5 to exclude certain motors; to provide relative to commission member appointments;  
6 to provide relative to the sale of marine products; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 32:1252(27), the introductory paragraph of R.S. 32:1253(A)(1), the  
9 introductory paragraph of R.S. 32:1261(A)(1)(k)(i), and R.S. 32:1270.1(1)(i) are hereby  
10 amended and reenacted to read as follows:

11 §1252. Definitions

12 The following words, terms, and phrases, when used in this Chapter, shall  
13 have the meanings respectively ascribed to them in this Section, except where the  
14 context clearly indicates a different meaning:

15 \* \* \*

16 (27) "Marine product" means a new or used watercraft, boat, ~~or~~ **marine**  
17 motor, ~~designed for recreational or commercial use on water~~ and a boat or watercraft

1 trailer. The term also includes an outboard motor or a boat with an inboard/outboard  
2 motor attached to it. The term shall not mean a ~~watercraft designed for use primarily~~  
3 ~~for commercial purposes or~~ new or used watercraft or ~~boats~~ **boat** adapted to be  
4 powered only by the occupant's energy.

5 \* \* \*

6 §1253. Motor Vehicle Commission; appointment and qualifications of members;  
7 terms of office; organization; oath; official bond; compensation;  
8 powers and duties

9 A. The Louisiana Motor Vehicle Commission is hereby created within the  
10 office of the governor and shall be composed of eighteen members appointed by the  
11 governor, as follows:

12 (1) A chairman of the commission shall be appointed from the state at large.  
13 Fourteen members shall be appointed in such manner that at least one, ~~but no more~~  
14 ~~than two~~, shall be from each of the commission districts as listed below:

15 \* \* \*

16 §1261. Unauthorized acts

17 A. It shall be a violation of this Chapter:

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

20 \* \* \*

21 (k)(i) To sell or offer to sell a new or unused motor vehicle ~~or recreational~~  
22 ~~product~~ directly to a consumer except as provided in this Chapter, or to compete with  
23 a licensee in the same-line makes, models, or classifications operating under an  
24 agreement or franchise from the aforementioned manufacturer. A manufacturer shall  
25 not, however, be deemed to be competing when any one of the following conditions  
26 are met:

27 \* \* \*

28 §1270.1. Unauthorized acts; marine products

29 It shall be a violation of this Part:

1 (1) For a manufacturer, a distributor, a wholesaler, distributor branch, or  
2 factory branch of marine products or any officer, agent, or other representative  
3 thereof:

4 \* \* \*

5 (i)(~~ii~~) To sell or offer to sell a new or unused marine product directly to a  
6 consumer except as provided in this Chapter, ~~or to compete with a licensee in the~~  
7 ~~same-line makes, models, or classifications operating under an agreement from the~~  
8 ~~forementioned manufacturer. A manufacturer shall not, however, be deemed to be~~  
9 ~~competing when any one of the following conditions are met:~~

10 (aa) ~~Operating a marine dealership temporarily for a reasonable period, not~~  
11 ~~to exceed two years.~~

12 (bb) ~~Operating a bona fide retail marine dealership that is for sale to any~~  
13 ~~qualified independent person at a fair and reasonable price, not to exceed two years.~~

14 (cc) ~~Operating in a bona fide relationship in which a person independent of~~  
15 ~~a manufacturer has made a significant investment subject to loss in the marine~~  
16 ~~dealership, and can reasonably expect to acquire full ownership of such dealership~~  
17 ~~on reasonable terms and conditions.~~

18 (ii) ~~After any of the conditions have been met under Subitems (i)(aa) and (bb)~~  
19 ~~of this Subparagraph, the commission shall allow the manufacturer to compete with~~  
20 ~~licensees of the same-line makes, models, or classifications under an agreement from~~  
21 ~~the manufacturer for longer than two years when, in the discretion of the~~  
22 ~~commission, the best interest of the manufacturer, consuming public, and licensees~~  
23 ~~are best served.~~

24 \* \* \*

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The original instrument was prepared by Curry J. Lann. The following digest,  
which does not constitute a part of the legislative instrument, was prepared  
by Sharon F. Lyles.

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SB 158 Engrossed DIGEST 2016 Regular Session Cortez

Present law defines "marine product" as a new or used watercraft, boat, or motor designed for recreational or commercial use on water and a boat or watercraft trailer. The term also

includes an outboard motor or a boat with an inboard/outboard motor attached to it. The term shall not mean a watercraft designed for use primarily for commercial purposes or new or used watercraft or boats adapted to be powered only by occupant's energy.

Proposed law revises definition to exclude a marine motor designed primarily for recreational or commercial use on water and otherwise retains present law.

Present law creates the Louisiana Motor Vehicle Commission in the office of the governor composed of 18 members appointed by the governor. Requires the commission to be appointed at large. Requires 14 commission members to be appointed so at least one, but no more than two, are appointed from each commission district.

Proposed law removes prohibition of appointment of no more than two members from a commission district.

Present law provides that it is a violation of law for a manufacturer, distributor, wholesaler, distributor branch, factory branch, converter or officer, agent, or other representative, to sell or offer to sell a new or unused motor vehicle or recreational product directly to a consumer except as provided by present law, or to compete with a licensee in the same-line makes, model, or classifications operating under an agreement or franchise from a manufacturer provided that a manufacturer is not deemed to be competing under certain conditions.

Proposed law removes 'recreational product' from present law prohibition.

Present law provides that it is a violation of law for a manufacturer, distributor, a wholesale, distributor branch, or factory branch of marine products or any officer, agent, or other representative thereof to sell or offer to sell a new or unused marine product directly to a consumer except as provided in present law or to compete with a licensee in the same-line makes, models, or classifications operating under an agreement from a manufacturer. Provides exceptions prohibition to competing with a licensee as follows:

- (1) Operating a marine dealership temporarily for a reasonable period, not to exceed two years.
- (2) Operating a bona fide retail marine dealership that is for sale to a qualified independent person at a fair and reasonable price, not to exceed two years.
- (3) Operating in a bona fide relationship in which a person independent of a manufacturer has made a significant investment subject to loss in the marine dealership, and can reasonably expect to acquire full ownership of such dealership on reasonable terms and conditions.

Requires the commission, that upon meeting conditions (1) and (2) above, to allow the manufacturer to compete with licensees of the same-line makes, models, or classifications under an agreement from the manufacturer for longer than two years when, in the discretion of the commission, if it best serves the best interest of the manufacturer, consuming public, and licensees.

Proposed law removes provisions of present law and exceptions relative to competing with a licensee operating under an agreement with a manufacturer.

Effective August 1, 2016.

(Amends R.S. 32:1252(27), 1253(A)(1)(intro para), 1261(A)(1)(k)(i)(intro para), and 1270.1(1)(i))

Summary of Amendments Adopted by SenateCommittee Amendments Proposed by Senate Committee on Transportation,  
Highways, and Public Works to the original bill

1. Revises the definition of "marine product" to exclude watercraft and marine motors designed primarily for use for commercial purposes.
2. Allows the governor to appoint more than two of his 14 member appointments to the Louisiana Motor Vehicle Commission from a commission district.
3. Removes "recreational product" as an unauthorized act for a manufacturer, distributor, wholesaler, distributor branch, converter or officer, agent, or other representative relative to sale or offer to sell a new or unused motor vehicle or to compete with a licensee.
4. Simplifies relative to marine products that it is an unauthorized act for a manufacturer, distributor, wholesaler, distributor branch, converter or officer, agent, or other representative relative to sell or offer to sell a new or unused marine product to a consumer except as provided by law. Removes provisions relative to competition with a licensee and exceptions under certain conditions.