Prior law provided for the La. Recreational and Used Motor Vehicle Commission and its jurisdiction, authority, and membership.

New law changes the name of the La. Recreational and Used Motor Vehicle Commission to the La. Used Motor Vehicle Commission.

Prior law provided that the La. Recreational and Used Motor Vehicle Commission consist of 14 members appointed by the governor with Senate confirmation.

New law provides that the La. Used Motor Vehicle Commission consist of 10 members appointed by the governor with Senate confirmation.

Prior law defined a "recreation product" as any new or used motorcycle, all-terrain vehicle, marine product, recreational vehicle, and trailer, as defined by prior law. New law excepts golf carts from the term "all-terrain vehicle."

New law transfers authority over new recreational products from the La. Recreational and Used Motor Vehicle Commission to La. Motor Vehicle Commission.

Prior law provided for the La. Motor Vehicle Commission consisting of 15 members appointed by the governor as follows:

(1) 11 members from commission districts providing for geographic representation throughout the state, subject to Senate confirmation. Requires each such member to have been an actively engaged licensee of the commission for not less than five consecutive years prior to appointment, and be a holder of such a license at all times while a commission member. Further requires, from among these 11 members, one member to be primarily engaged in the business of lease or rental, and one member to be primarily engaged in the business of sales finance.

(2) Each of the three remaining members, appointed from the state at-large, to be a public member, who is not a licensee under existing law, with the sole function of hearing and deciding certain matters concerning brokers and certain disputes between manufacturers, distributors, converters, motor vehicle lessor franchisor, or representatives and motor vehicle dealers, specialty vehicle dealers, and motor vehicle lessors.

New law expands membership of the commission from15 to 18 members.

New law retains prior law, but additionally requires one of the 14 members appointed from among the commission districts to be primarily engaged in the business of heavy truck sales, and three members to be primarily engaged in the business of recreational products.

Prior law specified those acts which are violations by a manufacturer, distributor, wholesaler, distributor branch, factory branch, converter or officer, agent, or other representative. More specifically, provided as a violation to induce or coerce, or attempt to induce or coerce, any motor vehicle dealer or specialty vehicle dealer:

(1) To assent to a release, assignment, novation, waiver, or estoppel which would relieve any person from liability to be imposed by law, unless done in connection with a settlement agreement to resolve a matter pending a commission hearing or pending litigation between a manufacturer, distributor, wholesaler, distributor branch or factory branch or an officer or agent; or to require any controversy between a dealer and a manufacturer to be referred to any person or entity other than the commission, or duly constituted court, if such referral would be binding upon the dealer.

(2) To enter into a franchise with a licensee or during the franchise term, using any written instrument, agreement, or waiver, to attempt to nullify or modify any provision of law, or prevent a new motor vehicle dealer from bringing an action in a particular forum otherwise available under law. Provides that such instruments, agreements, and waivers are null and void, unless done in connection with a settlement agreement to resolve a matter pending a commission hearing or pending litigation.

New law retains prior law but deletes redundancies and clarifies existing law violation prohibiting coerced releases from liability unless done in connection with a settlement of a pending matter before a commission or litigation. New law further clarifies prior law prohibiting coercion from an agreement to require a dealer to bring a controversy before a forum other than the commission or duly constituted state or federal court.

Prior law further provided it is a violation for a manufacturer, a wholesaler, distributor branch, factory branch, converter or officer, agent or other representative to terminate, cancel, or refuse to continue any franchise agreement based upon the fact that the motor vehicle dealer owns, has an investment in, participates in the management, or holds a franchise agreement for the sale or service of another make or line of new motor vehicles at a different dealership location, or has established prior to May 1, 1999, another make or line of new motor vehicles in the same dealership facilities of the manufacturer or distributor.

New law removes reference to the date of May 1, 1999, and instead prohibits terminating, canceling, or refusing to continue any franchise agreement based upon the fact that the dealer "intends to or has" established another make or line of new motor vehicles.

New law adds as a violation for any employee of a licensed motor vehicle dealer, specialty vehicle dealer or used motor vehicle dealer, while acting in the scope of his employment, to accept any payment, commission, fee, or compensation of any kind from any person other than the employing dealer, unless said payment is fully disclosed to and approved by the employing dealer.

Prior law (R.S. 32:1268(C)) required, notwithstanding the terms of any franchise agreement, each manufacturer or converter to indemnify and hold harmless its franchised dealers against any judgment for damages, including but not limited to court costs and reasonable attorney fees of the dealer, arising out of complaints, claims, or lawsuit including but not limited to strict liability, negligence, misrepresentation, express or implied warranty or rescission of sale to the extent that the judgment arises out of alleged defective or negligent manufacture, assembly or design of motor vehicles, parties, or accessories, or other functions by the manufacturer or converter, which are beyond the control of the dealer. Retains prior law but re-designates the provision as new law R.S. 32:1261.1.

New law requires a manufacturer of motor vehicles, distributor, wholesaler, distributor branch, factory branch, officer, agent or other representative thereof, to pay dealers all monies due such dealers, except manufacturer hold-back amounts, within 30 days of the date of completion of the transactions or submissions of the claims giving rise to the payments to the dealer. Provides a penalty of the one and one-half percent interest per month, or fraction thereof, until sums due dealer are fully paid.

Prior law provided that in the event the licensee ceases to engage in the business of being a motor vehicle or specialty vehicle dealer, or ceases to sell a particular make of motor vehicle or specialty vehicle and after notice to the manufacturer, converter, distributor, or representative by registered or certified mail, within 30 days of the receipt of the notice by the manufacturer, converter, distributor, or representative, the manufacturer, converter, distributor, or representative shall repurchase:

(1) At fair market value, each undamaged sign owned by the dealer which bears a trademark or trade name used or claimed by the manufacturer, converter, distributor, or representative if the sign was purchased from or purchased at the request of the manufacturer, distributor, or representative.

(2) At fair market value, all special tools and automotive service equipment owned by the dealer which were recommended in writing and designated as special tools and equipment and purchased from or purchased at the request of the manufacturer, converter, distributor, or representative, if the tools and equipment are in usable and good condition except for reasonable wear and tear.

New law retains prior law but also allows notice by commercial delivery service with verification of receipt to the manufacturer, converter, distributor, or representative. Further requires that fair market value be no less than cost of acquisition of signs or of special tools and automotive service equipment by the dealer.

Prior law required the manufacturer or converter to make the required repurchase after the dealer terminates his franchise and within 30 days of the submission to it, by registered or certified mail return receipt requested, of a final inventory of motor vehicles and parts on hand.

New law retains prior law, but also allows submission of the final inventory by commercial delivery service with verification of receipt.

Prior law required, upon the involuntary termination, nonrenewal, or cancellation of any franchise by the manufacturer or converter, except for termination, nonrenewal, or cancellation resulting from a felony conviction, notwithstanding the terms of any franchise, that the new motor vehicle or specialty vehicle dealer be allowed fair and reasonable compensation by the manufacturer or converter for the dealership facilities if the facilities were required to be purchased or constructed as a precondition to obtaining the franchise or to its renewal; provided that if such facilities were leased and the lease were required as a precondition to obtaining the franchise or to its renewal, then the manufacturer or converter is liable for one year's payment of the rent or the remainder of the term of the lease, whichever is less. Provided that payment under prior law entitled the manufacturers, converters, or distributors to possession and use of the facility.

New law retains prior law and further provides that the obligation of the manufacturer or converter to purchase a dealership facility is equally applicable if an affiliated entity or person affiliated with the dealer is the owner/lessor of the facility.

Provides that provisions of the new law are severable.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 32:781(5), (6), and (19), 782, 783(A), (F)(1), (2), and (8), and (I), 784(B) and (C), 785(C)(1), (D), and (E), 787, 789, 790(A) and (C), 802(A), 1251, 1252(2)(intro. para.), (a), and (c), (4), (8), (9), (12), (13), (16), (17), (19), (21), (23)(a), (b)(iv), and (c), (24), (25), (26), (27), (29), (33), (34), (35), (36)(a) and (b)(vi), and (37), 1253(A)(intro. para), (1)(intro. para.), (2), (3)(a) and (b), and (E), 1254(A)(6), (B)(2), (C)(9), (D)(4), and (7), (E)(introductory sentence), (E)(1), (2), (3), (4)(a), (5), (7), (8), (9), (10)(a), and (11), (F)(4), and (N), 1255(A)(2), 1256, 1261(1)(a)(intro. para.), (1)(a)(iv) and (v), and (o),(q) and (t), and (6)(a), 1265, and 1268; adds R.S. 32:1252 (39) through (50), 1254(A)(18) and (19), and (D)(6)(c), 1257.1, 1258(A)(10), 1261(7), 1261.1, 1261.2, 1262(A)(5), 1268.1, and 1268.2; and repeals R.S. 32:781(1) through (4), (9) through (18), (22) through (25), and (28), 783(F)(7) and (10), 784(A)(5) through (8), and 32:811 through 822)