
DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Carmody

HB No. 261

Abstract: Provides relative to the sale and distribution of motor vehicles.

Present law requires that certain persons be licensed by the Motor Vehicle Commission, including auto shows, trade shows, and exhibitions, which also includes promoters and nonresident exhibitors.

Proposed law repeals the requirement that nonresident exhibitors be licensed by the commission.

Present law provides for additional licensing and compliance requirements for motor vehicle and recreational products dealers.

Present law provides that a motor vehicle dealer holding a license shall not be required to obtain a license as a motor vehicle lessor, used motor vehicle dealer, or specialty vehicle dealer or converter, when modifying or selling those vehicles he is duly franchised and licensed to sell when such operations are conducted from the location from which the motor vehicle dealer is licensed to do business.

Proposed law retains present law but also exempts recreational products dealers from the requirement to obtain a license for the purposes of modifying or selling vehicles they are duly franchised and licensed to sell from the location from which the recreational products dealer is licensed to do business.

Present law provides for unauthorized acts pursuant to present law regarding the sale and distribution of motor vehicles.

Present law provides that it is an unauthorized act for any person or other licensee to modify a franchise during the term of the agreement or upon its renewal if the modification substantially and adversely affects the franchisee's rights, obligations, investment, or return on investment without giving 60-days written notice of the proposed modification to the licensee and Motor Vehicle Commission. Such notice is not required if the modification is required by law, court order, or the commission.

Proposed law requires that the 60-day written notice to the licensee and commission must include the grounds upon which the modification is based.

Present law provides that warranty and sales incentive audits of dealer records may be conducted

by the manufacturer, distributor, distributor branch, or factory branch.

Present law further provides that any audit for sales incentives, service incentives, rebates, or other forms of incentive compensation shall only be for the 12-month period immediately following the date of the close of the promotion, event, program, or activity.

Proposed law changes present law by providing that the 12-month period shall begin following the date of final payment to the dealer under a promotion, event, program, or activity.

Proposed law provides that a dealer shall not be charged back on a claim when a dealer performs a repair covered by the manufacturer's or distributor's warranty, and the dealer reasonably demonstrates that the repair resolved the condition which the customer presented for resolution, and the dealer documents what has been repaired and the process utilized to accomplish the repair.

Proposed law provides that it shall be deemed an unfair act pursuant to present law to audit a dealer more frequently than two sales-related and two service-related audits in a 12-month period. Proposed law provides that nothing in proposed law shall limit a manufacturer's or distributor's ability to perform routine claim reviews in the normal course of business.

Proposed law provides no claim may be rejected as late if it has been submitted within 60 days of the date the repair order was written.

(Amends R.S. 32:1254(A)(19) and E(9)(d), 1261(6)(a), and 1262(B)(1) and (4); Adds R.S. 32:1262(B)(5)-(7))

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Commerce to the original bill.

1. Exempted nonresident exhibitor from licensure requirements by the Motor Vehicle Commission.
2. Exempted recreational products dealers from certain licensure requirements under certain circumstances.
3. Clarified that the 60-day notice to modify a franchise must include the grounds upon which the modification is based.
4. Provided that any audit for sales incentives, service incentives, and rebates shall only be for the 12-month period immediately following the date of final payment to the dealer under a promotion, event, program, or activity.
5. Provided that a dealer shall not be charged back on a claim when a dealer performs a repair covered by the manufacturer's or distributor's warranty and the dealer

reasonably demonstrates that the repair resolved the condition which the customer presented for resolution and the dealer documents what has been repaired and the process utilized to accomplish the repair.

6. Provided for the frequency of audits.
7. Changed from 90 days to 60 days the time period within which a claim may be submitted before being rejected as late.
8. Made technical changes.