

1 SB277  
2 124659-9  
3 By Senator Bedford  
4 RFD: Banking and Insurance  
5 First Read: 24-MAR-11

1 SB277

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3  
4 ENROLLED, An Act,

5 Relating to manufacturers, distributors, and dealers  
6 of recreational vehicles; to prohibit manufacturers and  
7 distributors and dealers from selling recreational vehicles  
8 without having first entered into a manufacturer and dealer  
9 agreement; to provide requirements for the agreement; to  
10 provide for termination, cancellation, nonrenewal, or  
11 alteration of the agreement; to provide for repurchase of  
12 inventory; to provide for the transfer of an ownership  
13 interest in a dealership; to provide for obligations of a  
14 warrantor; to require mediation of certain disputes; and to  
15 amend Section 8-20-2, Code of Alabama 1975, to provide that  
16 the Motor Vehicle Franchise Act will not apply to any  
17 recreational vehicle manufacturer and dealer agreement.

18 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

19 Section 1. (a) It is the intent of the Legislature  
20 to protect the public health, safety, and welfare of the  
21 residents of the state by regulating the relationship between  
22 recreational vehicle dealers, manufacturers, and distributors,  
23 by maintaining competition, and by providing consumer  
24 protection and fair trade.

1           (b) This act applies to manufacturer and dealer  
2 agreements entered into on or after October 1, 2011.

3           (c) Chapter 20 of Title 8, Code of Alabama 1975,  
4 shall not apply to any recreational vehicle manufacturer and  
5 dealer agreement to which this act applies. This act does not  
6 otherwise amend or affect Chapter 20 of Title 8.

7           Section 2. As used in this act, the following words  
8 shall have the following meanings:

9           (1) AREA OF SALES RESPONSIBILITY. The geographical  
10 area, agreed to by the dealer and the manufacturer or the  
11 distributor or in the manufacturer and dealer agreement,  
12 within which the dealer has the exclusive right to display or  
13 sell new recreational vehicles of a particular line-make of  
14 the manufacturer or distributor to the retail public.

15           (2) CAMPING TRAILER. A vehicular unit that is  
16 mounted on wheels and constructed with collapsible partial  
17 side walls that fold for towing by another vehicle and unfold  
18 at the campsite to provide temporary living quarters for  
19 recreational, camping, or travel use.

20           (3) DEALER. Any person, firm, corporation, or  
21 business engaged in the business of selling recreational  
22 vehicles to the general public and that maintains a permanent  
23 business establishment including a service and repair facility  
24 which offers mechanical services for the recreational vehicles  
25 it sells.

1           (4) DISTRIBUTOR. Any person, firm, corporation, or  
2 business entity that purchases new recreational vehicles for  
3 resale to dealers.

4           (5) FACTORY CAMPAIGN. An effort on the part of a  
5 warrantor to contact recreational vehicle owners or dealers in  
6 order to address a part or equipment issue.

7           (6) FAMILY MEMBER. A spouse or a child, grandchild,  
8 parent, sibling, niece, or nephew, or the spouse thereof.

9           (7) FIFTH WHEEL TRAILER. A vehicular unit, mounted  
10 on wheels, designed to provide temporary living quarters for  
11 recreational, camping, or travel use and of such size and  
12 weight as not to require a special highway movement permit and  
13 designed to be towed by a motorized vehicle that contains a  
14 towing mechanism that is mounted above or forward of the tow  
15 vehicle's rear axle.

16           (8) LINE-MAKE. A specific series of recreational  
17 vehicle products that meets all of the following  
18 specifications:

19           a. Is identified by a common series trade name or  
20 trademark.

21           b. Is targeted to a particular market segment, as  
22 determined by the decor, features, equipment, size, weight,  
23 and price range.

24           c. Has lengths and interior floor plans that  
25 distinguish the recreational vehicles from other recreational

1 vehicles with substantially the same decor, equipment,  
2 features, price, and weight.

3 d. Belongs to a single, distinct classification of  
4 recreational vehicle product type having a substantial degree  
5 of commonality in the construction of the chassis, frame, and  
6 body.

7 e. Is a product that the manufacturer and dealer  
8 agreement authorizes the dealer to sell.

9 (9) MANUFACTURER. Any person, firm, corporation, or  
10 business entity that engages in the manufacture of  
11 recreational vehicles.

12 (10) MANUFACTURER AND DEALER AGREEMENT. A written  
13 agreement or contract entered into between a manufacturer or a  
14 distributor and a dealer that fixes the rights and  
15 responsibilities of the parties and pursuant to which the  
16 dealer sells new recreational vehicles.

17 (11) MOTOR HOME. A motorized, vehicular unit  
18 designed to provide temporary living quarters for  
19 recreational, camping, or travel use.

20 (12) PROPRIETARY PART. Any part manufactured by or  
21 for and sold exclusively by the manufacturer.

22 (13) RECREATIONAL VEHICLE. A motor home, travel  
23 trailer, fifth wheel trailer, camping trailer, and truck  
24 camper.

1           (14) SUPPLIER. Any person, firm, corporation, or  
2 business entity that engages in the manufacturing of  
3 recreational vehicle parts, accessories, or components.

4           (15) TRANSIENT CUSTOMER. A customer who is  
5 temporarily traveling through a dealer's area of sales  
6 responsibility.

7           (16) TRAVEL TRAILER. A vehicular unit, mounted on  
8 wheels, designed to provide temporary living quarters for  
9 recreational, camping, or travel use and of such size and  
10 weight as not to require a special highway movement permit  
11 when towed by a motorized vehicle.

12           (17) TRUCK CAMPER. A portable unit, constructed to  
13 provide temporary living quarters for recreational, travel, or  
14 camping use, consisting of a roof, floor, and sides and  
15 designed to be loaded onto and unloaded from the back of a  
16 pickup truck.

17           (18) WARRANTOR. Any person, firm, corporation, or  
18 business entity, including any manufacturer or distributor,  
19 that provides a written warranty to the consumer in connection  
20 with a new recreational vehicle or parts, accessories, or  
21 components thereof. The term does not include service  
22 contracts, mechanical or other insurance, or extended  
23 warranties sold for separate consideration by a dealer or  
24 other person not controlled by a manufacturer or distributor.

1           Section 3. (a) (1) After September 30, 2011, a  
2 manufacturer or distributor may not sell a recreational  
3 vehicle in this state to or through a dealer without having  
4 first entered into a manufacturer and dealer agreement with  
5 the dealer which has been signed by both parties.

6           (2) A dealer may not sell a new recreational vehicle  
7 in this state without having first entered into a manufacturer  
8 and dealer agreement with a manufacturer or distributor which  
9 has been signed by both parties.

10           (b) The manufacturer or distributor shall designate  
11 the area of sales responsibility exclusively assigned to a  
12 dealer in the manufacturer and dealer agreement. Except as  
13 provided in subsection (c), the manufacturer or distributor  
14 may not review or change the area of sales responsibility  
15 without the consent of both parties or contract with another  
16 dealer for the sale of the same line-make in the designated  
17 area until at least one year after the execution of the  
18 manufacturer and dealer agreement.

19           (c) If, subsequent to entering into a manufacturer  
20 and dealer agreement, a dealer enters into an agreement to  
21 sell any competing recreational vehicle products, or enters  
22 into an agreement to increase its pre-existing commitment to  
23 sell any competing recreational vehicle products, a  
24 manufacturer or distributor may revise the area of sales  
25 responsibility designated in the manufacturer and dealer

1 agreement if the market penetration of the manufacturer's or  
2 distributor's products is jeopardized by the dealer's  
3 subsequent agreements.

4 (d) When taking on an additional line-make of  
5 recreational vehicle, a dealer shall notify in writing any  
6 manufacturer or distributor of a competing similar product  
7 line with whom the dealer has a manufacturer and dealer  
8 agreement at least 30 days subsequent to entering into a  
9 manufacturer and dealer agreement with the manufacturer or  
10 distributor of the additional line-make.

11 Section 4. (a) A manufacturer or distributor,  
12 directly or through any authorized officer, agent, or  
13 employee, may terminate, cancel, or fail to renew a  
14 manufacturer and dealer agreement with or without cause. If  
15 the manufacturer or distributor terminates, cancels, or fails  
16 to renew a manufacturer and dealer agreement without cause,  
17 the manufacturer or distributor shall comply with Section 5.  
18 If the manufacturer or distributor terminates, cancels, or  
19 fails to renew a manufacturer and dealer agreement with cause,  
20 Section 5 does not apply.

21 (b) A manufacturer or distributor has the burden of  
22 showing cause for terminating, canceling, or failing to renew  
23 a manufacturer and dealer agreement with a dealer. For  
24 purposes of determining whether there is cause for the



1 proposed action, any of the following factors may be  
2 considered:

3 (1) The extent of the affected dealer's penetration  
4 in the area of sales responsibility.

5 (2) The nature and extent of the dealer's investment  
6 in its business.

7 (3) The adequacy of the dealer's service facilities,  
8 equipment, parts, supplies, and personnel.

9 (4) The effect of the proposed action on the  
10 community.

11 (5) The extent and quality of the dealer's service  
12 under recreational vehicle warranties.

13 (6) The failure to follow agreed upon procedures or  
14 standards related to the overall operation of the dealership.

15 (7) The dealer's performance under the terms of the  
16 manufacturer and dealer agreement.

17 (c) In the event the manufacturer or distributor is  
18 terminating the agreement for cause and except as otherwise  
19 provided in this section, a manufacturer or distributor shall  
20 provide the dealer, at least 120 days prior, with a written  
21 notice of termination, cancellation, or nonrenewal of the  
22 manufacturer and dealer agreement for cause.

23 (d) (1) A manufacturer or distributor that terminates  
24 a dealer agreement pursuant to subsection (c) shall provide a  
25 notice stating all reasons for the proposed termination,

1 cancellation, or nonrenewal. The notice shall further state  
2 that if, within 30 days following receipt of the notice, the  
3 dealer provides to the manufacturer or distributor a written  
4 notice of intent to cure all claimed deficiencies, the dealer  
5 shall then have 120 days following receipt of the notice to  
6 rectify the deficiencies. If the deficiencies are rectified  
7 within 120 days, the manufacturer's or distributor's notice is  
8 void. If the dealer fails to provide the notice of intent to  
9 cure the deficiencies in the prescribed time period, the  
10 termination, cancellation, or nonrenewal takes effect 30 days  
11 after the receipt by the dealer of the notice unless the  
12 dealer has new and untitled inventory on hand. The dealer may  
13 dispose of the inventory pursuant to Section 5.

14 (2) The notice period for a termination for cause  
15 may be reduced to 30 days if the grounds of the manufacturer  
16 or distributor for termination, cancellation, or nonrenewal  
17 are due to any of the following factors:

18 a. A dealer or any of its owners is convicted of, or  
19 enters a plea of nolo contendere to, a felony.

20 b. The dealer abandons or closes the business  
21 operations of the dealer for 10 consecutive business days  
22 unless the closing is due to a natural disaster, fire, labor  
23 difficulty, act of terrorism, war, riot, or other cause over  
24 which the dealer has no control.

1           c. A significant misrepresentation by the dealer  
2 materially affecting the business relationship.

3           d. A suspension or revocation of any license the  
4 dealer is required to possess, or a refusal by a licensing  
5 authority to renew a required license.

6           e. A material violation of this act which is not  
7 cured within 30 days after the written notice by the  
8 manufacturer or distributor.

9           (e) The notice provisions of subsections (c) and (d)  
10 do not apply if the reason for termination, cancellation, or  
11 nonrenewal is the insolvency of the dealer or the occurrence  
12 of an assignment for the benefit of creditors or bankruptcy.

13           (f) (1) A dealer may terminate or cancel its  
14 manufacturer and dealer agreement with a manufacturer or  
15 distributor with or without cause by giving 30 days written  
16 notice. If the termination or cancellation is for cause, the  
17 notice shall state all reasons for the proposed termination or  
18 cancellation and shall further state that if, within 30 days  
19 following receipt of the notice, the manufacturer or  
20 distributor provides to the dealer a written notice of intent  
21 to cure all claimed deficiencies, the manufacturer or  
22 distributor will then have 120 days following receipt of the  
23 original notice to rectify the deficiencies. If the  
24 deficiencies are rectified within 120 days, the dealer's  
25 notice is void. If the manufacturer or distributor fails to

1 provide the notice of intent to cure the deficiencies in the  
2 time period prescribed in the original notice of termination  
3 or cancellation, the pending termination or cancellation shall  
4 take effect 30 days after the receipt by the manufacturer or  
5 distributor of the original notice.

6 (2) If the dealer terminates, cancels, or fails to  
7 renew the manufacturer and dealer agreement without good  
8 cause, the terms of Section 5 do not apply. If the dealer  
9 terminates, cancels, or fails to renew the manufacturer and  
10 dealer agreement for good cause, Section 5 applies. The dealer  
11 has the burden of showing cause. Any of the following shall be  
12 deemed cause for the proposed termination, cancellation, or  
13 nonrenewal action by a dealer:

14 a. The manufacturer or distributor being convicted  
15 of, or entering a plea of nolo contendere to, a felony.

16 b. The business operations of the manufacturer or  
17 distributor have been abandoned or closed for 10 consecutive  
18 business days, unless the closing is due to a natural  
19 disaster, fire, labor difficulty, act of terrorism, war, riot,  
20 or other cause over which the manufacturer or distributor has  
21 no control.

22 c. A significant misrepresentation by the  
23 manufacturer or distributor materially affecting the business  
24 relationship.

1           d. A material violation of this act which is not  
2           cured within 30 days after written notice by the dealer.

3           (3) The notice provisions of subdivisions (1) and  
4           (2) do not apply if the reason for termination, cancellation,  
5           or nonrenewal is the insolvency of the or distributor or the  
6           occurrence of an assignment for the benefit of creditors or  
7           bankruptcy.

8           Section 5. (a) If the manufacturer and dealer  
9           agreement is terminated, canceled, or not renewed by the  
10          manufacturer or distributor without cause as defined in  
11          subsection (b) of Section 4 or if the dealer terminates or  
12          cancels the manufacturer and dealer agreement for cause as  
13          defined in subsection (f) of Section 4, and the manufacturer  
14          or distributor fails to cure the claimed deficiencies within  
15          the time provided in Section 4, the manufacturer or  
16          distributor, at the election of the dealer and within 45 days  
17          after termination, cancellation, or nonrenewal, shall do all  
18          of the following:

19          (1) Repurchase all new, untitled recreational  
20          vehicles that were acquired and delivered to the dealership  
21          from the manufacturer or distributor within 12 months before  
22          the effective date of the notice of termination, cancellation,  
23          or nonrenewal that have not been used, except for  
24          demonstration purposes, and that have not been altered or  
25          damaged at 100 percent of the net invoice cost, including

1 transportation, less applicable rebates and discounts to the  
2 dealer. In the event any of the vehicles repurchased pursuant  
3 to this subdivision are damaged, but do not trigger a consumer  
4 disclosure requirement, the amount due the dealer shall be  
5 reduced by the cost of repairing the vehicle. Damage prior to  
6 delivery to the dealer that is disclosed at the time of  
7 delivery does not disqualify repurchase under this  
8 subdivision.

9 (2) Repurchase all undamaged accessories and  
10 proprietary parts sold to the dealer for resale within the 12  
11 months prior to termination, cancellation, or nonrenewal, if  
12 accompanied by the original invoice, at 105 percent of the  
13 original net price paid to the manufacturer or distributor to  
14 compensate the dealer for handling, packing, and shipping the  
15 parts.

16 (3) Repurchase any properly functioning diagnostic  
17 equipment, special tools, current signage, and other equipment  
18 and machinery at 100 percent of the dealer's net cost plus  
19 freight, destination, delivery, and distribution charges and  
20 sales taxes, if any, if the items were purchased by the dealer  
21 within 5 years before termination, cancellation, or  
22 nonrenewal, upon the manufacturer's or distributor's request,  
23 and which the dealer meets the burden of establishing, and can  
24 no longer be used in the normal course of the dealer's ongoing  
25 business.

1           (b) The manufacturer or distributor shall pay the  
2 dealer within 30 days after receipt of the repurchased items.

3           Section 6. (a) If a dealer desires to make a change  
4 in ownership by the sale of the business assets, a stock  
5 transfer, or otherwise, the dealer shall give the manufacturer  
6 or distributor written notice at least 15 business days before  
7 the closing, including all supporting documentation as may be  
8 reasonably required by the manufacturer or distributor to  
9 determine if an objection to the sale may be made. In the  
10 absence of a breach by the selling dealer of its dealer  
11 agreement or this act, the manufacturer or distributor may not  
12 object to the proposed change in ownership unless any of the  
13 following circumstances is present:

14           (1) The prospective transferee has previously been  
15 terminated by the manufacturer or distributor for breach of  
16 its dealer agreement.

17           (2) The prospective transferee has been convicted of  
18 a felony or any crime of fraud, deceit, or moral turpitude.

19           (3) The prospective transferee lacks any license  
20 required by law.

21           (4) The prospective transferee does not have an  
22 active line of credit sufficient to purchase a manufacturer's  
23 or distributor's product.

24           (5) The prospective transferee has undergone in the  
25 last 10 years bankruptcy, insolvency, a general assignment for

1 the benefit of creditors, or the appointment of a receiver,  
2 trustee, or conservator to take possession of the transferee's  
3 business or property. This subdivision may be waived if the  
4 prospective transferee meets all of the requirements of this  
5 section and if the prospective transferee fully qualifies  
6 under the manufacturer's or lender's financial criteria.

7 (b) If the manufacturer or distributor objects to a  
8 proposed change of ownership, the manufacturer or distributor  
9 shall give written notice of its reasons to the dealer within  
10 10 business days after receipt of the dealer's notification  
11 and complete documentation. The manufacturer or distributor  
12 has the burden of proof with regard to its objection. If the  
13 manufacturer or distributor does not give timely notice of its  
14 objection, the change or sale shall be deemed approved.

15 (c) A manufacturer or distributor shall allow a  
16 dealer an opportunity to designate, in writing, a family  
17 member as a successor to the dealership in the event of the  
18 death, incapacity, or retirement of the dealer. The  
19 manufacturer or distributor may not prevent or refuse to honor  
20 the succession to a dealership by a family member of the  
21 deceased, incapacitated, or retired dealer unless the  
22 manufacturer or distributor has provided to the dealer written  
23 notice of its objections within 10 business days after receipt  
24 of the dealer's modification of the dealer's succession plan.  
25 In the absence of a breach of the dealer agreement, the



1 manufacturer or distributor may object to the succession for  
2 the following reasons only:

3 (1) Conviction of the successor of a felony or any  
4 crime involving fraud, deceit, or moral turpitude.

5 (2) Bankruptcy or insolvency of the successor during  
6 the past 10 years. This subdivision can be waived if the  
7 prospective successor meets all of the requirements of this  
8 section and if the prospective successor fully qualifies under  
9 the manufacturer's or lender's financial criteria.

10 (3) Prior termination by the manufacturer or  
11 distributor of the successor for breach of a dealer agreement.

12 (4) The lack of an active line of credit for the  
13 successor sufficient to purchase the manufacturer's or  
14 distributor's product.

15 (5) The lack of any license required by law of the  
16 successor.

17 (d) The manufacturer or distributor has the burden  
18 of proving its objection. A family member may not succeed to a  
19 dealership if the succession involves, without the  
20 manufacturer's or distributor's consent, a relocation of the  
21 business or an alteration of the terms and conditions of the  
22 manufacturer and dealer agreement.

23 Section 7. (a) Each warrantor shall do all of the  
24 following:

1           (1) Specify in writing each of its dealer  
2 obligations, if any, for preparation, delivery, and warranty  
3 service on its products.

4           (2) Compensate a dealer for warranty service  
5 required of the dealer by the warrantor.

6           (3) Provide a dealer the schedule of compensation to  
7 be paid and the time allowances for the performance of any  
8 work and service. The schedule of compensation shall include  
9 reasonable compensation for diagnostic work as well as  
10 warranty labor.

11           (b) Time allowances for the diagnosis and  
12 performance of warranty labor shall be reasonable for the work  
13 to be performed. In the determination of what constitutes  
14 reasonable compensation under this section, the principal  
15 factors to be given consideration shall be the actual wage  
16 rates being paid by the dealer and the actual retail labor  
17 rate being charged by the dealers in the community in which  
18 the dealer is doing business. The compensation of a dealer for  
19 warranty labor may not be less than the lowest retail labor  
20 rates actually charged by the dealer for like non-warranty  
21 labor as long as such rates are reasonable.

22           (c) The warrantor shall reimburse the dealer for  
23 warranty parts at actual wholesale cost plus a minimum 30  
24 percent handling charge and the cost, if any, of freight to  
25 return warranty parts to the warrantor.

1           (d) Warranty audits of dealer records may be  
2 conducted by the warrantor on a reasonable basis, and dealer  
3 claims for warranty compensation may not be denied except for  
4 cause, such as performance of non-warranty repairs, material  
5 noncompliance with the warrantor's published policies and  
6 procedures, lack of material documentation, fraud, or  
7 misrepresentation.

8           (e) The dealer shall submit warranty claims within  
9 30 days after completing work.

10          (f) The dealer shall immediately notify the  
11 warrantor in writing if the dealer is unable to perform any  
12 warranty repairs within 10 days of receipt of verbal or  
13 written complaints from a consumer.

14          (g) The warrantor shall disapprove warranty claims  
15 in writing within 30 days after the date of submission by the  
16 dealer in the manner and form prescribed by the warrantor.  
17 Claims not specifically disapproved in writing within 30 days  
18 shall be construed to be approved and shall be paid within 60  
19 days of submission.

20          (h) It is a violation of this act for any warrantor  
21 to do any of the following:

22           (1) Fail to perform any of its warranty obligations  
23 with respect to its warranted products.

24           (2) Fail to include, in written notices of factory  
25 campaigns to recreational vehicle owners and dealers, the

1 expected date by which necessary parts and equipment,  
2 including tires and chassis or chassis parts, will be  
3 available to dealers to perform the campaign work. The  
4 warrantor may ship parts to the dealer to effect the campaign  
5 work, and, if such parts are in excess of the dealer's  
6 requirements, the dealer may return unused parts to the  
7 warrantor for credit after completion of the campaign.

8 (3) Fail to compensate any of its dealers for  
9 authorized repairs effected by the dealer of merchandise  
10 damaged in manufacture or transit to the dealer, if the  
11 carrier is designated by the warrantor, factory branch,  
12 distributor, or distributor branch.

13 (4) Fail to compensate any of its dealers in  
14 accordance with the schedule of compensation provided to the  
15 dealer pursuant to this section if performed in a timely and  
16 competent manner.

17 (5) Intentionally misrepresent in any way to  
18 purchasers of recreational vehicles that warranties with  
19 respect to the manufacture, performance, or design of the  
20 vehicle are made by the dealer as warrantor or co-warrantor.

21 (6) Require the dealer to make warranties to  
22 customers in any manner related to the manufacture of the  
23 recreational vehicle.

24 (i) It is a violation of this act for any dealer to  
25 do any of the following:

1           (1) Fail to perform pre-delivery inspection  
2 functions, as specified by the warrantor, in a competent and  
3 timely manner so long as there are specific instructions from  
4 the manufacturer.

5           (2) Fail to perform warranty service work authorized  
6 by the warrantor in a reasonably competent and timely manner  
7 on any transient customer's vehicle of the same line-make.

8           (3) Fail to accurately document the time spent  
9 completing each repair, the total number of repair attempts  
10 conducted on a single unit, and the number of repair attempts  
11 for the same repair conducted on a single vehicle.

12           (4) Fail to notify the warrantor within 10 days of a  
13 second repair attempt which impairs the use, value, or safety  
14 of the vehicle.

15           (5) Fail to maintain written records, including a  
16 consumer's signature, regarding the amount of time a unit is  
17 stored for the consumer's convenience during a repair.

18           (6) Make fraudulent warranty claims or misrepresent  
19 the terms of any warranty.

20           Section 8. Notwithstanding the terms of any  
21 manufacturer and dealer agreement:

22           (1) A warrantor shall indemnify and hold harmless  
23 its dealer against any losses or damages to the extent such  
24 losses or damages are caused by the negligence or willful  
25 misconduct of the warrantor. The dealer shall provide to the

1 warrantor a copy of any pending lawsuit or similar proceeding  
2 in which allegations are made that come within this subsection  
3 within 10 days after receiving such suit.

4 (2) A dealer shall indemnify and hold harmless its  
5 warrantor against any losses or damages to the extent such  
6 losses or damages are caused by the negligence or willful  
7 misconduct of the dealer. The warrantor shall provide to the  
8 dealer a copy of any pending lawsuit or similar proceeding in  
9 which allegations are made that come within this subsection  
10 within 10 days after receiving such suit.

11 Section 9. (a) Whenever a new recreational vehicle  
12 is damaged prior to transit to the dealer or is damaged in  
13 transit to the dealer when the carrier or means of  
14 transportation has been selected by the manufacturer or  
15 distributor, the dealer shall notify the manufacturer or  
16 distributor of the damage within the time frame specified in  
17 the manufacturer and dealer agreement and shall do either of  
18 the following:

19 (1) Request from the manufacturer or distributor  
20 authorization to replace the components, parts, and  
21 accessories damaged or otherwise correct the damage.

22 (2) Reject the vehicle within the time frame set  
23 forth in subsection (d).

24 (b) If the manufacturer or distributor refuses or  
25 fails to authorize repair of the damage within 10 days after

1 receipt of notification, or if the dealer rejects the  
2 recreational vehicle because of damage, ownership of the new  
3 recreational vehicle shall revert to the manufacturer or  
4 distributor.

5 (c) The dealer shall exercise due care while having  
6 custody of the damaged recreational vehicle, but the dealer  
7 shall have no other obligations, financial or otherwise, with  
8 respect to that recreational vehicle.

9 (d) The time frame for inspection and rejection by  
10 the dealer must be part of the manufacturer and dealer  
11 agreement and may not be less than two business days after the  
12 physical delivery of the recreational vehicle.

13 (e) Any recreational vehicle that, at the time of  
14 delivery to the dealer, has an unreasonable amount of miles on  
15 its odometer, as determined by the dealer, may be subject to  
16 rejection by the dealer and reversion of the vehicle to the  
17 manufacturer or distributor. In no instance shall a dealer  
18 deem an amount less than the distance between the dealer and  
19 the manufacturer's factory or a distributor's point of  
20 distribution, plus 100 miles, as unreasonable.

21 Section 10. (a) A manufacturer or distributor may  
22 not coerce or attempt to coerce a dealer to do any of the  
23 following:

24 (1) Purchase a product that the dealer did not  
25 order.

1           (2) Enter into an agreement with the manufacturer or  
2 distributor.

3           (3) Enter into an agreement that requires the dealer  
4 to submit its disputes to binding arbitration or otherwise  
5 waive rights or responsibilities provided under this act.

6           (b) As used in this section, the term coerce  
7 includes, but is not limited to, threatening to terminate,  
8 cancel, or not renew a manufacturer and dealer agreement  
9 without good cause or threatening to withhold product lines  
10 the dealer is entitled to purchase pursuant to the  
11 manufacturer and dealer agreement or delay product delivery as  
12 an inducement to amending the manufacturer and dealer  
13 agreement.

14           Section 11. (a) A dealer, manufacturer, distributor,  
15 or warrantor injured by another party's violation of this act  
16 may bring a civil action in circuit court to recover actual  
17 damages. The court shall award attorney's fees and costs to  
18 the prevailing party in such an action. Venue for any civil  
19 action authorized by this section shall be exclusively in the  
20 county in which the dealer's business is located. In an action  
21 involving more than one dealer, venue may be in any county in  
22 which any dealer that is party to the action is located.

23           (b) (1) Prior to bringing suit under this section,  
24 the party bringing suit for an alleged violation shall serve a  
25 written demand for mediation upon the offending party.



1           a. The demand for mediation shall be served upon the  
2 other party via certified mail at the address stated within  
3 the manufacturer and dealer agreement between the parties.

4           b. The demand for mediation shall contain a brief  
5 statement of the dispute and the relief sought by the party  
6 filing the demand.

7           (2) Within 20 days after the date a demand for  
8 mediation is served, the parties shall mutually select an  
9 independent certified mediator and meet with that mediator for  
10 the purpose of attempting to resolve the dispute. The meeting  
11 place shall be in this state in a location selected by the  
12 mediator. The mediator may extend the date of the meeting for  
13 good cause shown by either party or upon stipulation of both  
14 parties.

15           (3) The service of a demand for mediation under this  
16 section shall toll the time for the filing of any complaint,  
17 petition, protest, or other action under this act until  
18 representatives of both parties have met with a mutually  
19 selected mediator for the purpose of attempting to resolve the  
20 dispute. If a complaint, petition, protest, or other action is  
21 filed before that meeting, the court shall enter an order  
22 suspending the proceeding or action until the mediation  
23 meeting has occurred and may, upon written stipulation of all  
24 parties to the proceeding or action that they wish to continue  
25 to mediate under this section, enter an order suspending the

1 proceeding or action for as long a period as the court  
2 considers appropriate.

3 (4) The parties to the mediation shall bear their  
4 own costs for attorney's fees and divide equally the cost of  
5 the mediator.

6 (c) In addition to the remedies provided in this  
7 section and notwithstanding the existence of any additional  
8 remedy at law, a dealer, manufacturer, distributor, or  
9 warrantor, is authorized to make application to a circuit  
10 court, upon a hearing and for cause shown, for the grant of a  
11 temporary or permanent injunction, or both, restraining any  
12 person from acting as a dealer without being properly  
13 licensed, from violating or continuing to violate any of the  
14 provisions of this act, or from failing or refusing to comply  
15 with the requirements of this act. The injunction shall be  
16 issued without bond. A single act in violation of the  
17 provisions of this act shall be sufficient to authorize the  
18 issuance of an injunction.

19 Section 12. Section 8-20-2 of the Code of Alabama  
20 1975, is amended to read as follows:

21 "§8-20-2.

22 "(a) The legislature finds and declares that the  
23 distribution and sale of motor vehicles within this state  
24 vitally affect the general economy of the state and the public  
25 interest and the public welfare, and that in order to promote

1 the public interest and the public welfare, and in the  
2 exercise of its police power, it is necessary to regulate  
3 motor vehicle manufacturers, distributors, dealers, and their  
4 representatives and to regulate the dealings between  
5 manufacturers and distributors or wholesalers and their  
6 dealers in order to prevent fraud and other abuses upon the  
7 citizens of this state and to protect and preserve the  
8 investments and properties of the citizens of this state.

9 "(b) This chapter shall not apply to any  
10 recreational vehicle manufacturer and dealer agreement to  
11 which Sections 1 to 11 of the act adding this subsection  
12 apply."

13 Section 13. This act shall become effective October  
14 1, 2011.

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President and Presiding Officer of the Senate

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Speaker of the House of Representatives

SB277

Senate 27-APR-11

I hereby certify that the within Act originated in and passed the Senate, as amended.

Patrick Harris  
Secretary

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House of Representatives  
Passed: 31-MAY-11

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By: Senator Bedford