

By: Krusee

H.B. No. 8

Substitute the following for H.B. No. 8:

By: Garza

C.S.H.B. No. 8

A BILL TO BE ENTITLED

1

AN ACT

2 relating to the regulation of motor vehicle sales and the powers and
3 duties of the Motor Vehicle Board of the Texas Department of
4 Transportation.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 2301.002, Occupations Code, is amended
7 by amending Subdivisions (6), (16), and (23), as amended by House
8 Bill No. 3507, Acts of the 78th Legislature, Regular Session, 2003,
9 amending Subdivision (32), and adding Subdivisions (1-a) and (14-a)
10 to read as follows:

11 (1-a) "Ambulance manufacturer" means a person other
12 than the manufacturer of a motor vehicle chassis who, before the
13 retail sale of the motor vehicle, performs modifications on the
14 chassis of a motor vehicle that result in the finished product being
15 classified as an ambulance.

16 (6) "Converter" means a person who, before the retail
17 sale of a motor vehicle other than a motor home, ambulance, or
18 fire-fighting vehicle:

19 (A) assembles, installs, or affixes a body, cab,
20 or special equipment to a chassis; or

21 (B) substantially adds, subtracts from, or
22 modifies a previously assembled or manufactured motor vehicle
23 [~~other than a motor home, ambulance, or fire-fighting vehicle~~].

24 (14-a) "Fire-fighting vehicle manufacturer" means a

1 person other than the manufacturer of a motor vehicle chassis who,
2 before the retail sale of the motor vehicle, performs modifications
3 on the chassis that result in the finished product being classified
4 as a fire-fighting vehicle.

5 (16) "Franchised dealer" means a person who:

6 (A) holds a franchised motor vehicle dealer's
7 license issued by the board under this chapter and Chapter 503,
8 Transportation Code; and

9 (B) is engaged in the business of buying,
10 selling, or exchanging new motor vehicles and servicing or
11 repairing motor vehicles under a manufacturer's warranty at an
12 established and permanent place of business under a franchise in
13 effect with a manufacturer or distributor.

14 (23) "Motor vehicle" means:

15 (A) a fully self-propelled vehicle having two or
16 more wheels that has as its primary purpose the transport of a
17 person or persons, or property, on a public highway;

18 (B) a fully self-propelled vehicle having two or
19 more wheels that:

20 (i) has as its primary purpose the
21 transport of a person or persons or property;

22 (ii) is not manufactured for use on public
23 streets, roads, or highways; and

24 (iii) meets the physical requirements for
25 the issuance of a certificate of title under department rules [~~has~~
26 ~~been issued a certificate of title~~];

27 (C) an engine, transmission, or rear axle,

1 regardless of whether attached to a vehicle chassis, manufactured
2 for installation in a vehicle that has:

3 (i) the transport of a person or persons, or
4 property, on a public highway as its primary purpose; and

5 (ii) a gross vehicle weight rating of more
6 than 16,000 pounds; or

7 (D) a towable recreational vehicle.

8 (32) "Towable recreational vehicle" means a
9 nonmotorized vehicle that:

10 (A) was originally designed and manufactured
11 primarily to provide temporary human habitation in conjunction with
12 recreational, camping, or seasonal use;

13 (B) is, or under department rules is eligible to
14 be, titled and registered with the department as a travel trailer
15 through a county tax assessor-collector;

16 (C) is permanently built on a single chassis;

17 (D) contains at least one life support system;

18 and

19 (E) is designed to be towable by a motor vehicle.

20 SECTION 2. Section 2301.153(a), Occupations Code, as
21 amended by House Bill No. 3507, Acts of the 78th Legislature,
22 Regular Session, 2003, is amended to read as follows:

23 (a) Notwithstanding any other provision of law, the board
24 has all powers necessary, incidental, or convenient to perform a
25 power or duty expressly granted under this chapter, including the
26 power to:

27 (1) initiate and conduct proceedings, investigations,

- 1 or hearings;
- 2 (2) administer oaths;
- 3 (3) receive evidence and pleadings;
- 4 (4) issue subpoenas to compel the attendance of any
5 person;
- 6 (5) order the production of any tangible property,
7 including papers, records, or other documents;
- 8 (6) make findings of fact on all factual issues
9 arising out of a proceeding initiated under this chapter;
- 10 (7) specify and govern appearance, practice, and
11 procedures before the board;
- 12 (8) adopt rules and issue conclusions of law and
13 decisions, including declaratory decisions or orders;
- 14 (9) enter into contracts;
- 15 (10) accept a donation, including a contribution of
16 property or services;
- 17 (11) execute instruments;
- 18 (12) [~~(11)~~] retain counsel;
- 19 (13) [~~(12)~~] use the services of the attorney general
20 and institute and direct the conduct of legal proceedings in any
21 forum;
- 22 (14) [~~(13)~~] obtain other professional services as
23 necessary and convenient;
- 24 (15) [~~(14)~~] impose a sanction for contempt;
- 25 (16) [~~(15)~~] assess and collect fees and costs,
26 including attorney's fees;
- 27 (17) [~~(16)~~] issue, suspend, or revoke licenses;

1 (18) [~~(17)~~] prohibit and regulate acts and practices
2 in connection with the distribution and sale of motor vehicles or
3 warranty performance obligations;

4 (19) [~~(18)~~] issue cease and desist orders in the
5 nature of temporary or permanent injunctions;

6 (20) [~~(19)~~] impose a civil penalty;

7 (21) [~~(20)~~] enter an order requiring a person to:

8 (A) pay costs and expenses of a party in
9 connection with an order entered under Section 2301.465;

10 (B) perform an act other than the payment of
11 money; or

12 (C) refrain from performing an act; and

13 (22) [~~(21)~~] enforce a board order.

14 SECTION 3. Subchapter D, Chapter 2301, Occupations Code, is
15 amended by adding Section 2301.161 to read as follows:

16 Sec. 2301.161. PUBLIC INFORMATION EXCEPTION. (a) In this
17 section, "access device" has the meaning assigned by Section
18 552.136, Government Code.

19 (b) Notwithstanding any other law or rule and except as
20 provided by Subsections (c) and (d), the following information on
21 file with the board relating to a person is confidential and not
22 subject to disclosure under Chapter 552, Government Code,
23 regardless of whether the person resides in this state:

24 (1) any personal information, other than the person's
25 name, shown on or the number assigned to:

26 (A) the driver's license, commercial driver's
27 license, or personal identification certificate issued to the

1 person by the Department of Public Safety or an analogous agency of
2 another state or the United States; or

3 (B) another identification document issued to
4 the person by a governmental entity;

5 (2) the person's social security number, taxpayer
6 identification number, or employer identification number;

7 (3) the person's date of birth;

8 (4) the person's residence address, unless the person
9 is a license holder or license applicant and the person's residence
10 address is also the person's business address;

11 (5) the person's residential telephone number, unless
12 the person is a license holder or license applicant and the person's
13 residential telephone number is also the person's business
14 telephone number;

15 (6) information contained in a lease or deed of real
16 property to which the person is a party;

17 (7) a bank account number of the person;

18 (8) information contained in a personal financial
19 statement of the person;

20 (9) the value of the person's inventory;

21 (10) a credit card, debit card, charge card, or access
22 device number of the person;

23 (11) the identity of a trust, trustee, or beneficiary
24 of a trust with an ownership or management interest in the person if
25 the person is a license holder or license applicant; or

26 (12) the percentage interest any other person owns in
27 the person if the person is an entity holding or applying for a

1 license.

2 (c) Information excepted from disclosure by this section
3 may be disclosed:

4 (1) in a judicial or administrative proceeding in
5 accordance with a lawful subpoena;

6 (2) to a federal, state, or local governmental entity
7 on written request; or

8 (3) on written authorization by the person to whom the
9 information relates.

10 (d) Subsection (b) does not apply to information relating to
11 security provided by a person under Section 503.033, Transportation
12 Code.

13 SECTION 4. Section 2301.251(a), Occupations Code, is
14 amended to read as follows:

15 (a) Unless a person holds a license issued under this
16 chapter authorizing the activity, and except as provided by this
17 subchapter, the person may not:

18 (1) engage in business as, serve in the capacity of, or
19 act as a dealer, manufacturer, distributor, converter,
20 representative, vehicle lessor, or vehicle lease facilitator in
21 this state; or

22 (2) perform or offer to perform repair services on a
23 motor vehicle under a franchise and a motor vehicle manufacturer's
24 warranty, regardless of whether the person sells or offers to sell
25 motor vehicles at the same location.

26 SECTION 5. Section 2301.252(b), Occupations Code, as
27 amended by House Bill No. 3507, Acts of the 78th Legislature,

1 Regular Session, 2003, is amended to read as follows:

2 (b) For purposes of this section:

3 (1) the make of a conversion[~~, ambulance, or~~
4 ~~fire-fighting vehicle~~] is that of the chassis manufacturer; [~~and~~]

5 (2) the make of a motor home is that of the motor home
6 manufacturer;

7 (3) the make of an ambulance is that of the ambulance
8 manufacturer; and

9 (4) the make of a fire-fighting vehicle is that of the
10 fire-fighting vehicle manufacturer.

11 SECTION 6. Section 2301.301(c), Occupations Code, is
12 amended to read as follows:

13 (c) The board by rule may implement a system under which
14 licenses expire on various dates during the year. For a year in
15 which a license expiration date is changed, the fee for the license
16 shall be prorated so that the license holder pays only that portion
17 of the fee that is allocable to the number of months during which
18 the license is valid, except for a fee for an application to
19 relocate a dealership in a municipality in which the dealership is
20 located. On renewal of the license on the new expiration date, the
21 entire license renewal fee is payable.

22 SECTION 7. Section 2301.705(b), Occupations Code, is
23 amended to read as follows:

24 (b) Notice must be given by certified mail, return receipt
25 requested, unless the person to whom notice is given resides
26 outside the United States. Notice to a person who resides outside
27 the United States must be given by:

1 (1) registered mail, return receipt requested; or

2 (2) a private carrier who offers confirmation of
3 delivery.

4 SECTION 8. Section 2301.803, Occupations Code, is
5 transferred to Subchapter O, Chapter 2301, Occupations Code, and
6 renumbered as Section 2301.7075, Occupations Code.

7 SECTION 9. Subsection (c), Section 2301.7075, Occupations
8 Code, as renumbered from Section 2301.803, Occupations Code, by
9 this Act, is amended to read as follows:

10 (c) A person affected by a statutory stay imposed by this
11 chapter may request a hearing [~~initiate a proceeding before the~~
12 ~~board~~] to modify, vacate, or clarify the extent and application of
13 the statutory stay.

14 SECTION 10. This Act takes effect November 1, 2003.