

By: Krusee

H.B. No. 8

A BILL TO BE ENTITLED

AN ACT

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

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

SECTION 1. Sections 2301.002(6) and (16), Occupations Code, are amended to read as follows:

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

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

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

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

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

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

1 SECTION 2. Section 2301.002(23), Occupations Code, is  
2 amended to read as follows:

3 (23) "Motor vehicle" means:

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

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

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

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

13 (iii) meets the physical requirements for  
14 the issuance of a certificate of title under department rules [~~has~~  
15 ~~been issued a certificate of title~~];

16 (C) an engine, transmission, or rear axle,  
17 regardless of whether attached to a vehicle chassis, manufactured  
18 for installation in a vehicle that has:

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

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

23 (D) a towable recreational vehicle.

24 SECTION 3. Section 2301.002(32), Occupations Code, is  
25 amended to read as follows:

26 (32) "Towable recreational vehicle" means a  
27 nonmotorized vehicle that:

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

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

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

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

9 and

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

11 SECTION 4. Section 2301.153(a), Occupations Code, is  
12 amended to read as follows:

13 (a) Notwithstanding any other provision of law, the board  
14 has all powers necessary, incidental, or convenient to perform a  
15 power or duty expressly granted under this chapter, including the  
16 power to:

17 (1) initiate and conduct proceedings, investigations,  
18 or hearings;

19 (2) administer oaths;

20 (3) receive evidence and pleadings;

21 (4) issue subpoenas to compel the attendance of any  
22 person;

23 (5) order the production of any tangible property,  
24 including papers, records, or other documents;

25 (6) make findings of fact on all factual issues  
26 arising out of a proceeding initiated under this chapter;

27 (7) specify and govern appearance, practice, and

1 procedures before the board;

2 (8) adopt rules and issue conclusions of law and  
3 decisions, including declaratory decisions or orders;

4 (9) enter into contracts;

5 (10) accept a donation, including a contribution of  
6 property or services;

7 (11) execute instruments;

8 (12) [~~(11)~~] retain counsel;

9 (13) [~~(12)~~] use the services of the attorney general  
10 and institute and direct the conduct of legal proceedings in any  
11 forum;

12 (14) [~~(13)~~] obtain other professional services as  
13 necessary and convenient;

14 (15) [~~(14)~~] impose a sanction for contempt;

15 (16) [~~(15)~~] assess and collect fees and costs,  
16 including attorney's fees;

17 (17) [~~(16)~~] issue, suspend, or revoke licenses;

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

21 (19) [~~(18)~~] issue cease and desist orders in the  
22 nature of temporary or permanent injunctions;

23 (20) [~~(19)~~] impose a civil penalty;

24 (21) [~~(20)~~] enter an order requiring a person to:

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

27 (B) perform an act other than the payment of

1 money; or

2 (C) refrain from performing an act; and

3 (22) [~~(21)~~] enforce a board order.

4 SECTION 5. Subchapter D, Chapter 2301, Occupations Code, is  
5 amended by adding Section 2301.161 to read as follows:

6 Sec. 2301.161. CONFIDENTIALITY OF CERTAIN INFORMATION  
7 RELATING TO LICENSE HOLDERS AND APPLICANTS. (a) Except as provided  
8 by Subsection (b), information contained in an application for a  
9 license under this chapter and other information relating to a  
10 license holder or license applicant that is on file with the board  
11 is confidential and not open to public inspection.

12 (b) This section does not make confidential a license  
13 holder's or license applicant's:

14 (1) name;

15 (2) business address; or

16 (3) business telephone number.

17 (c) Information made confidential by this section may be  
18 disclosed in a judicial or administrative proceeding in accordance  
19 with a lawful subpoena.

20 SECTION 6. Section 2301.251(a), Occupations Code, is  
21 amended to read as follows:

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

25 (1) engage in business as, serve in the capacity of, or  
26 act as a dealer, manufacturer, distributor, converter,  
27 representative, vehicle lessor, or vehicle lease facilitator in

1 this state; or

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

6 SECTION 7. Section 2301.252, Occupations Code, is amended  
7 by amending Subsection (b) and adding Subsection (c) to read as  
8 follows:

9 (b) For purposes of this section:

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

12 (2) the make of a motor home is that of the motor home  
13 manufacturer;

14 (3) the make of an ambulance is that of the ambulance  
15 manufacturer; and

16 (4) the make of a fire-fighting vehicle is that of the  
17 fire-fighting vehicle manufacturer.

18 (c) In this section:

19 (1) "Ambulance manufacturer" means a person other than  
20 the manufacturer of a motor vehicle chassis who, before the retail  
21 sale of the motor vehicle, performs modifications on the chassis of  
22 a motor vehicle that result in the finished product being  
23 classified as an ambulance.

24 (2) "Fire-fighting vehicle manufacturer" means a  
25 person other than the manufacturer of a motor vehicle chassis who,  
26 before the retail sale of the motor vehicle, performs modifications  
27 on the chassis that result in the finished product being classified

1 as a fire-fighting vehicle.

2 SECTION 8. Subchapter F, Chapter 2301, Occupations Code, is  
3 amended by adding Section 2301.267 to read as follows:

4 Sec. 2301.267. TEMPORARY OPERATION OF DEALERSHIP WITH  
5 PENDING APPLICATION. (a) A person may engage in the business of  
6 operating a dealership for which the person's license application  
7 is pending if the person meets the requirements of this section.

8 (b) To qualify for this exception, the person must:

9 (1) notify the board by registered mail, return  
10 receipt requested, of the person's intent to operate the dealership  
11 under this section; and

12 (2) have a license application to purchase an existing  
13 dealership that:

14 (A) is substantially complete and on file with  
15 the board; and

16 (B) is not subject to protest under Section  
17 2301.652.

18 (c) This section does not affect the board's right to deny  
19 the application.

20 SECTION 9. Section 2301.301(c), Occupations Code, is  
21 amended to read as follows:

22 (c) The board by rule may implement a system under which  
23 licenses expire on various dates during the year. For a year in  
24 which a license expiration date is changed, the fee for the license  
25 shall be prorated so that the license holder pays only that portion  
26 of the fee that is allocable to the number of months during which  
27 the license is valid, except for a fee for an application to

1 relocate a dealership in a municipality in which the dealership is  
2 located. On renewal of the license on the new expiration date, the  
3 entire license renewal fee is payable.

4 SECTION 10. Section 2301.705(b), Occupations Code, is  
5 amended to read as follows:

6 (b) Notice must be given by certified mail, return receipt  
7 requested, unless the person to whom notice is given resides  
8 outside of the United States. Notice to a person who resides  
9 outside the United States must be given by:

- 10 (1) registered mail, return receipt requested; or  
11 (2) a private carrier who offers confirmation of  
12 delivery.

13 SECTION 11. Section 2301.803(c), Occupations Code, is  
14 amended to read as follows:

15 (c) A person affected by a statutory stay imposed by this  
16 chapter may request a hearing before the entity that imposed the  
17 stay [~~initiate a proceeding before the board~~] to modify, vacate, or  
18 clarify the extent and application of the statutory stay.

19 SECTION 12. This Act takes effect November 1, 2003.