

By: Krusee

H.B. No. 2677

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of motor vehicle sales, the powers and duties of the Motor Vehicle Board of the Texas Department of Transportation, and the issuance of Texas Master Gardener license plates.

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

SECTION 1. Sections 2301.002(6), (16), (23), and (32), 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.

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

(A) holds a franchised motor vehicle dealer's general distinguishing number 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.

(23) "Motor vehicle" means:

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

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

(i) has as its primary purpose the transport of persons or property;

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

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

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

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

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

(D) a towable recreational vehicle.

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

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

(B) is or under department rules is eligible to

1 be, titled and registered with the department as a travel trailer
2 through a county tax assessor-collector;

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

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

5 and

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

7 SECTION 2. Section 2301.153(a), Occupations Code, is
8 amended to read as follows:

9 (a) Notwithstanding any other provision of law, the board
10 has all powers necessary, incidental, or convenient to perform a
11 power or duty expressly granted under this chapter, including the
12 power to:

13 (1) initiate and conduct proceedings, investigations,
14 or hearings;

15 (2) administer oaths;

16 (3) receive evidence and pleadings;

17 (4) issue subpoenas to compel the attendance of any
18 person;

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

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

23 (7) specify and govern appearance, practice, and
24 procedures before the board;

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

27 (9) enter into contracts;

1 (10) accept a donation, including a contribution of
2 property or services;

3 (11) [~~(10)~~] execute instruments;

4 (12) [~~(11)~~] retain counsel;

5 (13) [~~(12)~~] use the services of the attorney general
6 and institute and direct the conduct of legal proceedings in any
7 forum;

8 (14) [~~(13)~~] obtain other professional services as
9 necessary and convenient;

10 (15) [~~(14)~~] impose a sanction for contempt;

11 (16) [~~(15)~~] assess and collect fees and costs,
12 including attorney's fees;

13 (17) [~~(16)~~] issue, suspend, or revoke licenses;

14 (18) [~~(17)~~] prohibit and regulate acts and practices
15 in connection with the distribution and sale of motor vehicles or
16 warranty performance obligations;

17 (19) [~~(18)~~] issue cease and desist orders in the
18 nature of temporary or permanent injunctions; and

19 (20) [~~(19)~~] impose a civil penalty.

20 SECTION 3. 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 4. 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 is that of the chassis
11 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 5. Subchapter F, Chapter 2301, Occupations Code, is
3 amended by adding Section 2301.266 to read as follows:

4 Sec. 2301.266. 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 6. 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 7. Section 2301.476, Occupations Code, is amended
5 by adding Subsection (h) to read as follows:

6 (h) A manufacturer or distributor may own an interest in a
7 dealer who:

8 (1) primarily engages in the business of renting to
9 persons motor vehicles that the dealer owns; and

10 (2) does not sell or offer to sell a motor vehicle
11 other than a vehicle that the dealer:

12 (A) owns and has taken from service in the
13 dealer's rental fleet; or

14 (B) accepts in trade as part of the sale of a
15 motor vehicle taken from service in the dealer's rental fleet.

16 SECTION 8. Section 2301.705(b), Occupations Code, is
17 amended to read as follows:

18 (b) Notice must be given by certified mail, return receipt
19 requested, unless the person to whom notice is given resides
20 outside of the United States. Notice to a person who resides
21 outside the United States must be given by:

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

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

25 SECTION 9. Section 2301.803(c), Occupations Code, is
26 amended to read as follows:

27 (c) A person affected by a statutory stay imposed by this

chapter may request a hearing before the entity that imposed the stay [~~initiate a proceeding before the board~~] to modify, vacate, or clarify the extent and application of the statutory stay.

SECTION 10. Subchapter F, Chapter 502, Transportation Code, is amended by adding Section 502.2737 to read as follows:

Sec. 502.2737. TEXAS MASTER GARDENER LICENSE PLATES. (a) The department shall issue specially designed license plates for passenger cars and light trucks that include the seal of the Texas Master Gardener program of Texas Cooperative Extension.

(b) The department shall issue license plates under this section to a person who:

(1) applies to the assessor-collector of the county in which the person resides on a form provided by the department; and

(2) pays an annual fee of \$30, in addition to the fee prescribed by Section 502.161 or 502.162 and, if personalized prestige license plates are issued, in addition to the fee prescribed by Section 502.251.

(c) Of each fee collected under Subsection (b)(2), \$8 shall be used by the department only to defray the cost of administering this section. The department shall deposit the remainder of each fee collected to the credit of an account in the general revenue fund that may be appropriated only to Texas Cooperative Extension for graduate student assistantships within the Texas Master Gardener program and to support Texas Cooperative Extension's activities related to the Texas Master Gardener program.

(d) If the owner of a vehicle for which license plates were issued under this section disposes of the vehicle during a

H.B. No. 2677

1 registration year, the owner shall return the special license
2 plates to the department.

3 SECTION 11. This Act takes effect September 1, 2003.