AN ACT
relating to the regulation of marine manufacturers, dealers, and
distributors.

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

SECTION 1. Section 31.003, Parks and Wildlife Code, is
amended by amending Subdivision (7) and adding Subdivision (16) to
read as follows:

(7) "Dealer" means a person [customarily] engaged in
the business of buying, selling, selling on consignment, displaying
for sale, or exchanging at least five vessels, motorboats, or
outboard motors during a calendar year at an established or
permanent place of business in this state [and that at each place of
business there is a sign conspicuously displayed showing the name
of the dealership so that it may be located by the public and
sufficient space to maintain an office, service area, and display
of products].

(16) "Distributor" means a person who offers for sale,
sells, or processes for distribution new boats or outboard motors
to dealers in this state.

SECTION 2. Subchapter A, Chapter 31, Parks and Wildlife
Code, is amended by adding Section 31.007 to read as follows:

Sec. 31.007. DEALER REQUIREMENTS. A dealer shall:

(1) display in each of the dealer's places of business
a sign that:
(A) is conspicuous to the public; and

(B) shows the name of the dealership; and

(2) operate in a space sufficient to maintain an office, service area, and display of products.

SECTION 3. Section 31.021, Parks and Wildlife Code, is amended to read as follows:

Sec. 31.021. REQUIRED NUMBERING. (a) Each vessel on the water of this state shall be numbered in accordance with the provisions of this chapter unless specifically exempted. The numbering system shall be in accord with the Federal Boating Act of 1958 and subsequent federal legislation.

(b) No person may operate or give permission for the operation of any vessel or may dock, moor, or store a vessel owned by the person on the water of this state unless:

(1) the vessel is numbered as required by this chapter;

(2) the certificate of number awarded to the vessel is in full force and effect; and

(3) the identifying number set forth in the certificate is properly displayed on each side of the bow of the vessel as required by this chapter.

SECTION 4. Section 31.032, Parks and Wildlife Code, is amended to read as follows:

Sec. 31.032. NUMBERING ON BOW. (a) The owner of a vessel shall paint on or attach to each side of the vessel near the bow the identification number and a validation decal in the manner prescribed by the department. The number shall read from left to
right and shall be of block characters of good proportion of not
less than three inches in height. The numbers shall be of a color
which will contrast with the hull material of the vessel and so
maintained as to be clearly visible and legible.

(b) The owner of a vessel required to be numbered under this
subchapter and documented by the United States Coast Guard is not
required to attach an identification number as required by
Subsection (a).

(c) The commission shall adopt rules for the placement of
the validation decal in an alternate location for antique boats. In
this subsection, "antique boat" means a boat that:

(1) is used primarily for recreational purposes; and
(2) was manufactured before 1968.

SECTION 5. Section 31.039, Parks and Wildlife Code, is
amended to read as follows:

Sec. 31.039. PUBLIC RECORDS; FEES. (a) All ownership
records of the department made or kept under this chapter are public
records.

(b) The commission may by rule charge a fee for access to
ownership records and other records made or kept under this
chapter.

SECTION 6. Section 31.041, Parks and Wildlife Code, is
amended to read as follows:

Sec. 31.041. DEALER'S, DISTRIBUTOR'S, AND MANUFACTURER'S
LICENSE [NUMBER]. (a) A person may not engage in business in this
state as a dealer, distributor, or manufacturer unless the person
holds a license issued under this section. A dealer must have a
license for each place of business owned and operated by the person.

(b) The commission shall establish the form and manner for display of a license issued under this section.

(c) The department shall issue a dealer, distributor, or manufacturer number to each dealer, distributor, or manufacturer licensed under this section in the manner provided by Section 31.031(b).

(d) A dealer, distributor, or manufacturer of vessels in this state may use the dealer's, distributor's, or manufacturer's number for vessels the dealer, distributor, or manufacturer wishes to show, demonstrate, or test on the water of this state instead of securing a certificate of number for each vessel. The number shall be attached to any vessel that the dealer, distributor, or manufacturer sends temporarily on the water. For purposes of this subsection, "show, demonstrate, or test" does not include the use of a vessel for recreational purposes or for participation in a contest or event.

(e) The application for a license under this section must state that the applicant is a dealer, distributor, or manufacturer within the meaning of this chapter, and the facts stated on the application must be sworn before an officer authorized to administer oaths. An application submitted by a dealer must be accompanied by photographs of the business sufficient to show any sign the business is required to display and the extent of the space the business is required to maintain. The application must also be accompanied by a copy of the tax permit of the dealer, distributor, or manufacturer issued by the comptroller.
under Chapter 151, Tax Code, if the dealer, distributor, or manufacturer has a tax permit. The two-year fee for a dealer's, distributor's, or [and] manufacturer's number is $500 (45 or an amount set by the commission, whichever amount is more]. A license [No number] may not be issued until the provisions of this section have been satisfied.

(f) A dealer, distributor, or manufacturer holding a dealer's, distributor's, or [and] manufacturer's license [number] may issue a reasonable temporary facsimile of the number issued under Subsection (c), which may be used by any authorized person. A person purchasing a vessel may use the dealer's number for a period not to exceed 15 days prior to filing an application for a certificate of number. The form of the facsimile and the manner of display of the number shall be prescribed by the department.

(g) A dealer, distributor, or manufacturer holding a dealer's, distributor's, or [and] manufacturer's license [number] may transfer a certificate of number or a certificate of title to a vessel or outboard motor without securing a certificate of number or certificate of title in the dealer's, distributor's, or manufacturer's name if the vessel or outboard motor is sold in the normal course of the dealer's, distributor's, or manufacturer's business. [Any other person transferring a vessel or outboard motor must secure a certificate of number or certificate of title in the person's name before transferring the certificate of number or the certificate of title.]

SECTION 7. Subchapter B, Chapter 31, Parks and Wildlife Code, is amended by adding Sections 31.0411, 31.0412, and 31.0413
to read as follows:

Sec. 31.0411. TERM OF LICENSE; TRANSFER. (a) Except as provided by Subsection (b), a license issued under Section 31.041:

(1) is valid for two years from the date of issuance; and

(2) may not be transferred to another person.

(b) A license issued under Section 31.041 in the name of a business remains valid for the business location specified on the license if a change of ownership or business name occurs.

(c) A license issued under Section 31.041 may be transferred to a new address if:

(1) a business moves to another location; and

(2) a change of ownership has not occurred.

Sec. 31.0412. LICENSING RULES. The commission may adopt rules regarding licenses issued under Section 31.041, including rules:

(1) regarding license transfer procedures;

(2) prescribing application forms;

(3) regarding application and renewal procedures;

(4) prescribing reporting and recordkeeping requirements for license holders; and

(5) setting fees to be charged for:

(A) a transferred license; or

(B) a replacement license.

Sec. 31.0413. EXEMPTION FROM DEALER LICENSING REQUIREMENTS. The dealer licensing provisions of this subchapter do not apply to the sale of a canoe, kayak, punt, rowboat, rubber
raft, paddleboat, or other vessel that is less than 12 feet in
length and has a horsepower rating of five horsepower or less or to
the sale of an outboard motor with a manufacturer's rating of five
horsepower or less.

SECTION 8. Section 31.042(b), Parks and Wildlife Code, is
amended to read as follows:

(b) Causes for cancellation of certificates and voiding of
numbers include:

(1) surrender of the certificate for cancellation;
(2) issuance of a new number for the same vessel;
(3) [issuance of a marine document by the Bureau of
Customs for the same vessel;
(4) false or fraudulent certification in an
application for number;
(5) failure to pay the prescribed fee; and
(6) dismantling, destruction, or other change
in the form or character of the vessel or outboard motor so that it
is no longer correctly described in the certificate or it no longer
meets the definition of a vessel or outboard motor.

SECTION 9. Subchapter B, Chapter 31, Parks and Wildlife
Code, is amended by adding Section 31.044 to read as follows:

Sec. 31.044. INSPECTIONS. A dealer, distributor, or
manufacturer may not refuse to allow the department or a peace
officer to inspect a vessel, outboard motor, or records relating to
the possession, origination, ownership, or transfer of a vessel or
outboard motor at a dealership or distributor's or manufacturer's
place of business during normal business hours.
SECTION 10. Subchapter B-1, Chapter 31, Parks and Wildlife Code, is amended by adding Section 31.0465 to read as follows:

Sec. 31.0465. APPEAL REGARDING CERTIFICATE OF TITLE; BOND; RULES. (a) An applicant for a certificate of title under Section 31.046 may appeal the department's refusal to issue the title by filing a bond with the department as provided by this section.

(b) A bond filed under this section must be:

(1) in the form prescribed by the department;

(2) executed by the applicant;

(3) issued by a person authorized to act as a surety business in this state;

(4) in an amount equal to 1-1/2 times the value of the vessel or outboard motor as determined by the department; and

(5) conditioned to indemnify all prior owners and lienholders and all subsequent purchasers of the vessel or outboard motor or persons who acquire a security interest in the vessel or outboard motor, and their successors in interest, against any expense, loss, or damage, including reasonable attorney's fees, resulting from:

(A) the issuance of the certificate of title for the vessel or outboard motor; or

(B) a defect in or undisclosed security interest in the right, title, or interest of the applicant to or in the vessel or outboard motor.

(c) The department may issue the certificate of title to the person filing the bond if the applicant proves to the satisfaction of the department that:
the vessel or outboard motor is not stolen; and

issuance of a certificate of title would not
defraud the owner or a lienholder of the vessel or outboard motor.

(d) A person described by Subsection (b)(5) has a right of
action to recover on the bond for a breach of a condition of the bond
described by Subsection (b)(5). The aggregate liability of the
surety to all persons may not exceed the amount of the bond.

(e) A bond filed under this section expires on the third
anniversary of the date the bond became effective. The department
shall return an expired bond to the person who filed the bond unless
the department has been notified of a pending action to recover on
the bond.

(f) On return of a bond under Subsection (e), the department
shall issue a certificate of title to the person to whom the bond is
returned.

(g) In addition to the situation described by Subsection
(c), the commission by rule may define acceptable situations in
which certificates of title may be issued after the filing of a bond
under this section.

SECTION 11. Section 31.049(c), Parks and Wildlife Code, is
amended to read as follows:

(c) If there is a lien on the vessel or outboard motor, the
original certificate of title shall be sent to the first
lienholder[, a duplicate original certificate shall be sent to the
owner,] and a copy shall be retained by the department.

SECTION 12. Section 31.053, Parks and Wildlife Code, is
amended by adding Subsection (f) to read as follows:
(f) A person who is not licensed as a dealer, distributor, or manufacturer under this chapter must obtain a certificate of number or certificate of title to a vessel or outboard motor in the person's name before transferring the certificate of number or certificate of title.

SECTION 13. Section 31.127(a), Parks and Wildlife Code, is amended to read as follows:

(a) A person who violates or fails to comply with any provision of this chapter, or who violates or fails to comply with a proclamation of the commission entered under this chapter or a city ordinance or order of a commissioners court or a political subdivision of the state made or entered under this chapter, commits an offense that is a Class C Parks and Wildlife Code misdemeanor.

SECTION 14. (a) Not later than January 1, 2004, the Parks and Wildlife Commission shall adopt any rules necessary to implement this Act.

(b) A person is not required to be licensed under Section 31.041, Parks and Wildlife Code, as amended by this Act, until March 1, 2004. Before that date, the person is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 15. This Act takes effect September 1, 2003.
H.B. No. 2926

President of the Senate

Speaker of the House

I certify that H.B. No. 2926 was passed by the House on April 25, 2003, by a non-record vote; and that the House concurred in Senate amendments to H.B. No. 2926 on May 22, 2003, by a non-record vote.

Chief Clerk of the House

I certify that H.B. No. 2926 was passed by the Senate, with amendments, on May 20, 2003, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: ____________________________

Date

Governor