By: _____ H.B. No. 244

A BILL TO BE ENTITLED

AN ACT

relating to the licensing and regulation of motor home and towable recreational vehicle exhibition promoters, dealers, and manufacturers.

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

SECTION 1. Section 2301.001, Occupations Code, is amended to read as follows:

Sec. 2301.001. CONSTRUCTION; PURPOSE. The distribution and sale of motor vehicles in this state vitally affects the general economy of the state and the public interest and welfare of its citizens. This chapter shall be liberally construed to accomplish its purposes, including the exercise of the state's police power to ensure a sound system of distributing and selling motor vehicles through:

(1) licensing and regulating manufacturers, distributors, converters, <u>exhibition promoters,</u> and dealers of motor vehicles; and

(2) enforcing this chapter as to other persons to provide for compliance with manufacturer's warranties and to prevent fraud, unfair practices, discrimination, impositions, or other abuse of the people of this state.

SECTION 2. Section 2301.002, Occupations Code, is amended by amending Subdivision (3) and adding Subdivisions (13-a), (13-b), and (13-c) to read as follows:

(3) "Broker" means a person who, for a fee, commission, or other valuable consideration, arranges or offers to arrange a transaction involving the sale of a new motor vehicle, other than a person who is:

(A) a franchised dealer or a bona fide employee of a franchised dealer acting for the franchised dealer;

(B) a representative or a bona fide employee of a representative acting for the representative;

(C) a distributor or a bona fide employee of a distributor acting for the distributor;

(D) an exhibition promoter, dealer, or manufacturer or a bona fide employee of an exhibition promoter, dealer, or manufacturer acting for the promoter, dealer, or manufacturer; or

(E) [~~(D)~~] the owner of the vehicle at any point in the transaction.

(13-a) "Exhibition dealer" means a person who is licensed or otherwise legally recognized in this state or another jurisdiction as a motor vehicle dealer and who buys, sells, or exchanges motor homes or towable recreational vehicles at a motor home or towable recreational vehicle exhibition or show in this state.

(13-b) "Exhibition manufacturer" means a person who manufactures or assembles new motor homes or towable recreational vehicles to display and offer for retail sale at a motor home or towable recreational vehicle exhibition or show in this state.

(13-c) "Exhibition promoter" means a person who

organizes and conducts a show or exhibition in this state to display and offer for retail sale motor homes or towable recreational vehicles. The term includes a nonprofit organization that organizes and conducts a show or exhibition in this state for the benefit of its members.

SECTION 3. Section 2301.251(a), Occupations Code, is amended to read as follows:

(a) Unless a person holds a license issued under this chapter authorizing the activity, the person may not:

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

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

SECTION 4. Subchapter F, Chapter 2301, Occupations Code, is amended by adding Section 2301.2525 to read as follows:

Sec. 2301.2525. LICENSE REQUIRED: NEW MOTOR HOME OR TOWABLE RECREATIONAL VEHICLE EXHIBITION. (a) A person may not act as an exhibition promoter or engage in the business of displaying or selling at retail new motor homes or towable recreational vehicles at an exhibition or show in this state unless the person holds an exhibition promoter's license issued by the board under this chapter and complies with this chapter.

(b) A person who engages in the retail sale of motor homes or towable recreational vehicles and who is licensed as a motor vehicle dealer in another state or jurisdiction may not provide motor homes or towable recreational vehicles for display and retail sale at an exhibition or show in this state and may not engage in the business of displaying or selling at retail new motor homes or towable recreational vehicles at an exhibition or show in this state unless the person holds an exhibition dealer's license issued by the board under this chapter and complies with this chapter.

(c) An exhibition manufacturer may not provide motor homes or towable recreational vehicles for display and retail sale by an exhibition dealer at an exhibition or show in this state unless the manufacturer holds an exhibition manufacturer's license issued by the board under this chapter and complies with this chapter.

(d) The board may issue a license under this section to a person whose principal business location is within this state or is outside this state.

(e) A person licensed in accordance with this section is not required to hold a franchised dealer's license or obtain a dealer general distinguishing number to display or sell motor homes or towable recreational vehicles at an exhibition or show in this state.

SECTION 5. Section 2301.264(a), Occupations Code, is amended to read as follows:

(a) The annual fees for a license issued under this chapter are:

(1) $900 for a manufacturer or distributor, plus $20

for each dealer franchised by the manufacturer or distributor;

(2) for a franchised dealer:

(A) $175, if the dealer sold fewer than 201 new motor vehicles during the preceding calendar year;

(B) $275, if the dealer sold more than 200 but fewer than 401 new motor vehicles during the preceding calendar year;

(C) $400, if the dealer sold more than 400 but fewer than 801 new motor vehicles during the preceding calendar year;

(D) $500, if the dealer sold more than 800 but fewer than 1,201 new motor vehicles during the preceding calendar year;

(E) $625, if the dealer sold more than 1,200 but fewer than 1,601 new motor vehicles during the preceding calendar year;

(F) $750, if the dealer sold more than 1,600 new motor vehicles during the preceding calendar year; and

(G) $100 for each location separate from the dealership at which the dealer does not offer motor vehicles for sale but performs warranty service work on vehicles the dealer is franchised and licensed to sell;

(3) $25 for an amendment to a license;

(4) $100 for a representative;

(5) $375 for a converter;

(6) for a vehicle lessor:

(A) $175, if the lessor leased 200 or fewer motor

vehicles during the preceding calendar year;

(B) $275, if the lessor leased more than 200 but fewer than 401 motor vehicles during the preceding calendar year;

(C) $400, if the lessor leased more than 400 but fewer than 801 motor vehicles during the preceding calendar year;

(D) $500, if the lessor leased more than 800 but fewer than 1,201 motor vehicles during the preceding calendar year;

(E) $625, if the lessor leased more than 1,200 but fewer than 1,601 motor vehicles during the preceding calendar year; and

(F) $750, if the lessor leased more than 1,600 motor vehicles during the preceding calendar year;

(7) $375 for a vehicle lease facilitator; [~~and~~]

(8) $200 for an exhibition dealer, plus $100 for each new motor home or towable recreational vehicle the dealer transports into this state for display or retail sale at a motor home or towable recreational vehicle show or exhibition;

(9) $100 for an exhibition manufacturer, plus $100 for each new motor home or towable recreational vehicle the manufacturer transports into this state for display or retail sale at a motor home or towable recreational vehicle show or exhibition;

(10) a fee in the amount determined by the board for an exhibition promoter; and

(11) $50 for a duplicate license.

SECTION 6. Section 2301.358, Occupations Code, is amended to read as follows:

Sec. 2301.358. MOTOR HOME OR TOWABLE RECREATIONAL VEHICLE

SHOW OR EXHIBITION. (a) An exhibition promoter licensed under this chapter may organize and conduct a motor home or towable recreational vehicle exhibition or show in accordance with this chapter and board rules. [~~A person who holds a license issued under this chapter may not participate in a new motor vehicle show or exhibition unless:~~

[~~(1) the person provides the board with written notice at least 30 days before the date the show or exhibition opens; and~~

[~~(2) the board grants written approval.~~]

(b) Nothing in this section exempts a franchised dealer or dealer from complying with a law or rule relating to the sale and delivery of a new motor home or towable recreational vehicle. [~~A person who holds a license issued under this chapter may not sell or offer for sale a new motor vehicle at a show or exhibition, but dealership personnel may be present to aid in showing and exhibiting new motor vehicles.~~]

(c) This section does not prohibit the sale of an [~~a towable recreational vehicle, motor home,~~] ambulance, fire-fighting vehicle, or tow truck at a show or exhibition if:

(1) the show or exhibition is approved by the board; and

(2) the sale is not otherwise prohibited by law.

(d) A rule adopted by the board regulating the off-site display or sale of towable recreational vehicles must include a provision that authorizes the display and sale of towable recreational vehicles at a private event in a trade area that would not otherwise qualify for the private event under the application

of general participation requirements for organized dealer shows and exhibitions.

(e) The retail sale in accordance with this section of a motor home or towable recreational vehicle that will be registered outside this state and will be transported outside this state within 72 hours of the exhibition or show by the purchaser or an agent of the purchaser for use outside this state is not subject to a tax imposed under Chapter 152, Tax Code, provided the purchaser or agent complies with Section 152.092, Tax Code.

SECTION 7. Section 503.024(b), Transportation Code, is amended to read as follows:

(b) For the purposes of Section 503.021, a person is not engaging in business as a dealer by:

(1) selling or offering to sell a vehicle the person acquired for personal or business use to a person other than a retail buyer if the sale or offer is not made to avoid a requirement of this chapter;

(2) selling, in a manner provided by law for the forced sale of vehicles, a vehicle in which the person holds a security interest;

(3) acting under a court order as a receiver, trustee, administrator, executor, guardian, or other appointed person;

(4) selling a vehicle the person acquired from the vehicle's owner as a result of paying an insurance claim if the person is an insurance company;

(5) selling an antique passenger car or truck that is at least 25 years of age; [~~or~~]

(6) selling a special interest vehicle that is at least 12 years of age if the person is a collector; or

(7) displaying or selling a motor home or towable recreational vehicle at a recreational vehicle show or exhibition in accordance with Chapter 2301, Occupations Code.

SECTION 8. (a) Not later than January 1, 2006, the Motor Vehicle Board of the Texas Department of Transportation shall adopt the rules and establish the licensing categories required by Chapter 2301, Occupations Code, as amended by this Act.

(b) An exhibition promoter, exhibition dealer, or exhibition manufacturer is not required to comply with the licensing requirements of Section 2301.2525, Occupations Code, as added by this Act, before January 1, 2006.

SECTION 9. This Act takes effect September 1, 2005.

H.B. No. 244 By [illegible]

A BILL TO BE ENTITLED
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relating to the licensing and regulation of motor home and towable recreational vehicle exhibition promoters, dealers, and manufacturers.

DEC 16 2004 Filed with the Chief Clerk

FEB 01 2005 Read first time and referred to Committee on Licensing & Administrative Procedures

_____ Reported ___ favorably (as amended)
(as substituted)

_____ Sent to Committee on (Calendars)
(Local & Consent Calendars)

_____ Read second time (comm. subst.) (amended); passed to third reading (failed) by a (non-record vote)
(record vote of _____ yeas, _____ nays, _____ present, not voting)

_____ Constitutional rule requiring bills to be read on three several days suspended (failed to suspend)
by a vote of _____ yeas, _____ nays, _____ present, not voting

_____ Read third time (amended); finally passed (failed to pass) by a (non-record vote)
(record vote of _____ yeas, _____ nays, _____ present, not voting)

_____ Engrossed

_____ Sent to Senate

_____
CHIEF CLERK OF THE HOUSE

OTHER HOUSE ACTION:

_____ Received from the House

_____ Read and referred to Committee on _____

_____ Reported favorably _____

_____ Reported adversely, with favorable Committee Substitute; Committee Substitute read first time

_____ Ordered not printed

_____ Laid before the Senate

_____ Senate and Constitutional Rules to permit consideration suspended by (unanimous consent)
(_____ yeas, _____ nays)

_____ Read second time, _____, and passed to third reading by (unanimous consent)
(a viva voce vote)
(_____ yeas, _____ nays)

_____ Senate and Constitutional 3 Day Rules suspended by a vote of _____ yeas, _____ nays

_____ Read third time, _____, and passed by (a viva voce vote)
(_____ yeas, _____ nays)

_____ Returned to the House

_____
SECRETARY OF THE SENATE

OTHER SENATE ACTION:

_____ Returned from the Senate (as substituted)
(with amendments)

_____ House concurred in Senate amendments by a (non-record vote)
(record vote of _____ yeas, _____ nays, _____ present, not voting)

_____ House refused to concur in Senate amendments and requested the appointment of a conference committee by a (non-record vote) (record vote of _____ yeas, _____ nays, _____ present, not voting)

_____ House conferees appointed: _____, Chair; _____,

_____, _____, _____

_____ Senate granted House request. Senate conferees appointed: _____, Chair;

_____, _____, _____, _____

_____ Conference committee report adopted (rejected) by the House by a (non-record vote)
(record vote of _____ yeas, _____ nays, _____ present, not voting)

_____ Conference committee report adopted (rejected) by the Senate by a (viva voce vote)
(record vote of _____ yeas, _____ nays)