

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB 01-2014/2dn

PJH:.....

Representative Freese:

Under this draft, an affected grantor must approve a proposed action by a dealer unless the proposed action would substantially harm the affected grantor's interests in the market where the dealer is located. If a proposed action is refused, a dealer may ask the division of hearings and appeals within the department of transportation to approve the action despite the affected grantor's refusal. In a proceeding before the division of hearings and appeals, the affected grantor has the burden of proving that the proposed action would cause substantial harm if the dealer alleges that no substantial harm would occur.

Please note that, as drafted, amended s. 218.0134 (3) (b) gives a cause of action for costs and attorneys' fees to any dealer that is allowed to proceed with a proposed action against the objections of an affected grantor, regardless of whether the division of hearings and appeals finds that the affected grantor failed to prove that the proposed action would cause substantial harm to the affected grantor's interests. In other words, even if the division of hearings and appeals finds that the other reasons listed in s. 218.0134 (3) (a) are sufficient to grant the proposed action without determining whether substantial harm would occur, the dealer would still have a cause of action for attorneys' fees and costs. Please let me know if this is not your intent.

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