

2007 DRAFTING REQUEST

Bill

Received: 05/16/2007

Received By: agary

Wanted: As time permits

Identical to LRB:

For: Jerry Petrowski (608) 266-1182

By/Representing: Eric Bott

This file may be shown to any legislator: NO

Drafter: agary

May Contact:

Addl. Drafters:

Subject: Transportation - mot veh dealers

Extra Copies:

Submit via email: YES

Requester's email: Rep.Petrowski@legis.wisconsin.gov

Carbon copy (CC:) to: aaron.gary@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Motor vehicle manufacturers, importers, distributors, and dealers

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	agary 05/16/2007	lkunkel 05/17/2007		_____			
/1			nnatzke 05/17/2007	_____	mbarman 05/17/2007	cduerst 06/18/2007	

FE Sent For: *none*

<END>

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/?	agary	1/mks/17	nwn 5/17	<u>nwn</u> <u>5/17</u>			

FE Sent For:

<END>

Gary, Aaron

From: Bott, Eric
Sent: Wednesday, May 16, 2007 4:39 PM
To: Gary, Aaron
Subject: RE: Draft review: LRB 07-1217/P3 Topic: Motor vehicle dealers, manufacturers, importers, and distributors; compensation for parts and labor warranty work; retail installment sales contracts; administrative hearings; license suspensions

Aaron,

Please do.

Thanks,

Eric

From: Gary, Aaron
Sent: Wednesday, May 16, 2007 4:36 PM
To: Bott, Eric
Subject: RE: Draft review: LRB 07-1217/P3 Topic: Motor vehicle dealers, manufacturers, importers, and distributors; compensation for parts and labor warranty work; retail installment sales contracts; administrative hearings; license suspensions

Hi Eric,

Do you want me to enter this request for a companion bill for Rep. Petrowski? Thanks. Aaron

Aaron R. Gary
Legislative Attorney
Legislative Reference Bureau
608.261.6926 (voice)
608.264.6948 (fax)
aaron.gary@legis.state.wi.us

From: Piliouras, Elizabeth
Sent: Wednesday, May 16, 2007 3:32 PM
To: Gary, Aaron
Cc: Bott, Eric
Subject: FW: Draft review: LRB 07-1217/P3 Topic: Motor vehicle dealers, manufacturers, importers, and distributors; compensation for parts and labor warranty work; retail installment sales contracts; administrative hearings; license suspensions

Hi Aaron:

Please go ahead and have this done as a /I and allow Petrowski's office to have it drafted in an Assembly version.

Thanks,

05/16/2007

Beth

From: Sen.Breske

Sent: Tuesday, May 01, 2007 12:56 PM

To: Piliouras, Elizabeth

Subject: FW: Draft review: LRB 07-1217/P3 Topic: Motor vehicle dealers, manufacturers, importers, and distributors; compensation for parts and labor warranty work; retail installment sales contracts; administrative hearings; license suspensions

From: Parisi, Lori

Sent: Tuesday, May 01, 2007 12:56 PM

To: Sen.Breske

Subject: Draft review: LRB 07-1217/P3 Topic: Motor vehicle dealers, manufacturers, importers, and distributors; compensation for parts and labor warranty work; retail installment sales contracts; administrative hearings; license suspensions

Following is the PDF version of draft LRB 07-1217/P3.

5002

2747/1

LRB-122711

ARG:lmk:jf

in 5/16

RMNR

2007 BILL

No changes

Releg ✓

1 AN ACT *to repeal* 218.0134 (3) (a); *to amend* 218.0134 (2) (c) and 218.0134 (3)

2 (b); and *to create* 218.0134 (3) (am) of the statutes; **relating to:** motor vehicle

3 manufacturers, importers, distributors, and dealers.

Analysis by the Legislative Reference Bureau

Under current law, motor vehicle dealers (dealers) and manufacturers, importers, and distributors (franchisors) are required to be licensed by the Department of Transportation (DOT). If an agreement between a franchisor and a dealer requires the franchisor's prior approval of certain proposed actions by the dealer, the dealer may not voluntarily change its ownership or executive management, transfer its dealership assets to another person, add another franchise at the same location as its existing franchise, or relocate a franchise, without giving prior written notice of the proposed action to the franchisor and to DOT. If the franchisor does not approve of the proposed action, the franchisor must provide the dealer and DOT with a written statement of the reasons for its disapproval. The dealer may then file a complaint with the Division of Hearings and Appeals in the Department of Administration (DHA) for the determination of whether there is good cause for permitting the proposed action to be undertaken. DHA must schedule a hearing and decide the matter. The burden of proof for showing there is good cause for not permitting the proposed action is on the franchisor. In determining if there is good cause for permitting a proposed action to be undertaken, DHA may consider any relevant factor including: 1) the reasons for the proposed action, 2) the franchisor's reasons for not approving the proposed action, 3) the degree of adverse

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impact of not being able to undertake the proposed action on the dealer's investment or return on investment, 4) whether the proposed action is in the public interest, 5) the degree to which the proposed action interferes with the orderly and profitable distribution of the franchisor's products, 6) the impact of the proposed action on other dealers, and 7) whether the dealer and franchisor previously agreed on a specific action that is inconsistent with the proposed action and, if so, whether circumstances have changed. DHA's decision must be in writing and contain findings of fact and a determination of whether there is good cause for permitting the proposed action to be undertaken.

This bill eliminates any ambiguity with respect to the DHA hearing process by specifying that DHA must determine whether there is good cause for not permitting the proposed action to be undertaken, thereby uniformly recognizing a burden of proof on the franchisor. The bill also eliminates the specific list of factors that DHA may consider. The bill provides that DHA may determine there is good cause for not permitting a proposed action to be undertaken only if the prospective benefits to the franchisor, the dealer, the public, and other dealers if the proposed action is not undertaken outweigh the prospective harms to the dealer, the franchisor, the public, and other dealers if the proposed action is not undertaken.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 218.0134 (2) (c) of the statutes is amended to read:

2 218.0134 (2) (c) A dealer who is served with a written statement by an affected
3 grantor under par. (b) may file with the department of transportation and the
4 division of hearings and appeals and serve upon the affected grantor a complaint for
5 the determination of whether there is good cause for not permitting the proposed
6 action to be undertaken. The burden of proof for showing there is good cause for not
7 permitting the proposed action shall be on the affected grantor. The division of
8 hearings and appeals shall promptly schedule a hearing and decide the matter. The
9 proposed action may not be undertaken pending the determination of the matter.

10 **SECTION 2.** 218.0134 (3) (a) of the statutes is repealed.

11 **SECTION 3.** 218.0134 (3) (am) of the statutes is created to read:

Parisi, Lori

From: Bott, Eric
Sent: Monday, June 18, 2007 10:55 AM
To: LRB.Legal
Subject: Draft Review: LRB 07-2747/1 Topic: Motor vehicle manufacturers, importers, distributors, and dealers

Please Jacket LRB 07-2747/1 for the ASSEMBLY.