

Date of Hearing: April 6, 2015

**ASSEMBLY COMMITTEE ON TRANSPORTATION**

Jim Frazier, Chair

AB 759 (Linder) – As Amended March 26, 2015

**SUBJECT:** Recreational vehicles

**SUMMARY:** Expressly authorizes RV dealers to sell remaining inventory after a franchise agreement ends and makes other technical amendments related to automobile and recreational vehicle (RV) franchise agreements and their oversight by the New Motor Vehicle Board (Board). Specifically, **this bill:**

- 1) Creates separate and distinct code sections for Board oversight procedures of automobile franchises and RV franchises.
- 2) Establishes operational requirements for the Board's oversight of RV franchise agreements, similar to those currently used for automobile franchises, including
  - a) Establishing quorum standards;
  - b) Establishing judicial review procedures;
  - c) Establishing protest hearing procedures; and,
  - d) Establishing document mailing procedures.
- 3) Expressly authorizes RV dealers to sell remaining inventory after a franchise agreement has been terminated, cancelled, or is not renewed.
- 4) Makes related clarifying and conforming changes.

**EXISTING LAW:**

- 1) Charges the California Department of Motor Vehicles (DMV) with licensing and regulating dealers, manufacturers, and distributors of motor vehicles that conduct business in California.
- 2) Establishes the Board as a program within DMV, with oversight provided by the California State Transportation Agency (CalSTA).
- 3) Authorizes the Board to act in a quasi-judicial capacity to resolve disputes between franchise dealers and manufacturers/distributors of new motor vehicles, including motorcycles and RVs.
- 4) Prescribes the Board's operational procedures.

**FISCAL EFFECT:** Unknown

**COMMENTS:** The Board was created in 1967 as the New Car Dealers Policy and Appeals Board. At the time of its inception, the Board's functions were limited to hearing appeals that arose from final decisions made by the DMV. In 1973, the Legislature passed the California Automobile Franchise Act, which gave the Board its present name and tasked it with regulating and settling disputes in the new motor vehicle industry. The Board's current mission is to enhance relations between dealers and manufactures of automobiles, RV's, and motorcycles by resolving disputes in the industry in an efficient, fair, and cost-effective manner.

According to the author, existing law contains extensive provisions relating to the Board's role in resolving franchise disputes between auto manufacturers and dealers. He notes that over time, provisions have been added and amendments have been made to include reference to RV's along with automobiles. The author notes, however, that inclusion of RV references have been "spotty" and inconsistent. Specifically, the author notes that "One problem is that existing provisions in the auto[mobile] sections sometimes reference RVs, and sometimes the RV sections contain references to motor vehicles." The author, along with the sponsors, the Recreational Vehicle Industry Association (RVIA) and the California Recreational Vehicle Dealers Association (CalRVDA), contend that separating provisions relating to automobiles from those relating to RVs with respect to Board oversight is needed to provide clarity and consistency.

In addition to clarifying and conforming amendments to the code, the bill also contains a number of technical changes relating to operations of the Board. The author points out that these changes were suggested by the Board to the sponsors and are needed to improve operations. These changes include the addition of quorum standards currently in place for motor vehicle dealer franchise disputes, adding the requirement for use of certified mail for judicial review proceedings, allowing the Board to hold hearings on protests pertaining to RV franchises (identical to those for automobile franchises), allowing the Board to make decisions on protests pertaining to RV franchises (identical to those for automobile franchises), establishing a judicial review under RV franchise provisions (identical to those for automobile franchises), and incorporating references to violations that would enable the Board to revoke or suspend a manufacturer's license (identical to those for automobile franchises).

While the majority of the bill's provisions work to achieve this consistency in the codes governing the Board's oversight, there is one exception related to the new authority provided in the bill to RV franchises with the respect to sale of inventory after a franchise agreement is ended. Specifically, the bill provides authorization for an RV dealership to sell remaining units in inventory after a franchise relationship has ended. According the sponsors, this has been the existing practice for some time, despite the fact that it is not expressly authorized. They note that there are differences in the way automobiles and RVs are held by their respective dealerships that necessitates this authority. Specifically, for automobiles, the dealer holds the inventory but it is owned by the manufacturer. Therefore, when an automobile franchise agreement is ended, the vehicles are simply returned to the manufacturer. For RVs, however, the RV dealer purchases inventory outright from the manufacturer. Therefore, when there is a termination of a franchise agreement, the dealer owns the inventory and it is not possible for them to return unsold RVs to the manufacturer. Instead, the RV dealer must sell a new RV to recoup their costs. Without the express authorization, the RV dealer would be required to sell remaining inventory as "used" since they are technically listed as the owner. Since there is substantial depreciation on RVs, this would represent a significant loss to an RV dealer. The provisions in

this bill would codify the existing practice of RV dealers being allowed to sell the remaining inventory after a franchise agreement ends.

*Previous legislation:* SB 248 (Murray), Chapter 703, Statutes of 2003, required that the practices and activities of RV dealers be regulated by the Board.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

California Recreation Vehicle Dealers Association, co-sponsor  
Recreational Vehicle Industry Association, co-sponsor

**Opposition**

None on file

**Analysis Prepared by:** Victoria Alvarez / TRANS. / (916) 319-2093