



Testimony to the Pennsylvania Legislature's House Professional Licensure Committee

Regarding
Senate Bill 764 (Gordner)

Presented to
The Honorable Mark Mustio
Chair

The Honorable Harry Readshaw
Democratic Chair

and

Members of the Committee

May 22, 2018
PUBLIC HEARING

11:30 a.m., Room 205, Ryan Office Building
Harrisburg, Pennsylvania

Respectfully submitted by

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The RV Industry Association is the national trade association which represents recreation vehicle (RV) manufacturers and their component parts suppliers, who together build more than 98 percent of all RVs produced in the U.S. In 2017, RVIA members shipped more than a half-million vehicles to their RV dealer partners across the nation with a retail value of more than \$18 billion. Our members build motorhomes and towable RVs – travel trailers, fifth-wheel trailers, folding camping trailers, park model RVs and truck campers.

The following data is based on 2015 known data and scientific economic modeling:

The total direct economic output of the RV industry in Pennsylvania was \$726.5 million.

- *Manufacturers and suppliers, \$341.6 Million*
- *Sales and service, \$170.6 Million*
- *Campgrounds and travel, \$214.3 Million*

There were approximately 673 RV-industry related businesses in the Commonwealth in that time frame, including 142 RV dealerships. Total taxes paid by the RV industry were \$162.2 million. RV-related businesses paid \$244.1 million in direct wages for 4,683 jobs.

Overall the combined RV and outdoor industry provides \$1.5 billion in economic output; \$522 million in wages and more than 9,000 jobs throughout the Commonwealth.

Good morning, Chairmen and members of the committee, and our prime sponsor, Senators Gordner. I am honored to have the opportunity to speak with you today about Senate Bill 764, which amends the Pennsylvania Board of Vehicles Act to accommodate the RV industry as a regulated industry separate from the automobile industry.

This bill has been no small undertaking, nor has it been in the several other states where I worked on similar legislation. This legislature, its Committees and staff are owed a debt of gratitude from the RV industry, its stakeholders and partners for your concerted effort to support and pass this legislation.

You know that the RV industry is important to Pennsylvania's economy and well-being. Passage of these revisions recognizes and embraces that importance and will strengthen the viability of the RV industry in this Commonwealth to its benefit and that of dealers, manufacturers and consumers alike.

Over the years, the RV industry worked with the automobile industry to establish exemptions from parts of the automobile franchise law – which is a good law – simply because those provisions do not pertain to the RV industry or are handled differently among RV manufacturers and dealers.

The result is we are approaching a patchwork of exemptions that create confusion on which part of what provision applies to which industry, and under what circumstances.

To fix this problem, and to address other structural problems in the law, the RV Industry Association proposed to Pennsylvania RV dealers that we ask the legislature to place our industry in a separate chapter of law but remain under the guidance and regulatory authority of the Motor Vehicle Board. SB 764 is the result of those talks, negotiations, drafting discussions (and a bit of head-pounding) which started in 2016.

I'd like to share with you why the RV industry seeks to implement RV specific manufacturer-dealer laws, take a run through construction of the bill, then hopefully answer any questions you might have.

The RV specific model law is designed to be *fair, reciprocal and reasonable to all stakeholders* – and in the RV industry, that includes the dealer and the manufacturer, but also suppliers to manufacturers who provide a written warranty on their products directly to those who purchase and enjoy RVs. These suppliers must also treat dealers fairly under the RV law in warranty matters – a major difference from the automobile industry.

The RV Specific model law...

- Accommodates the RV industry's unique "one-dealer-with-many-manufacturers" business model that is *not based on a franchise structure*

- Works best for the RV industry *and the State* – the RV industry will not be out of compliance with any inapplicable automobile franchise provisions the law might contain
- Is developed through a collaborative, negotiated process which considers each stakeholder's needs

Key Provisions for RV Dealers

- Warranty obligations include original equipment manufacturer (OEM) *and those suppliers I mentioned*
- It's a comprehensive law and is the same for motorized and towable recreation vehicles
- Offers dealer-initiated termination of a manufacturer/dealer agreement – a common RV industry practice not often seen in the auto industry
- Multi-state dealers, like manufacturers, will benefit from consistent manufacturer-dealer laws across the states

Key Provisions for State Legislators and Regulators

- Model law has been enacted in 13 States with no negative repercussions. Two bills are now pending, in New York and here in Pennsylvania.
- RV specific laws like the Model Law are enacted in another 6 States
- Licensing laws are amended for conformity but essentially do not change
- RV model law requires mediation first, but dispute resolution laws remain in place
- The bill includes industry-approved definitions for all RV types for clarity

Key Provisions for RV Manufacturers and Suppliers

- Consistent laws around the country simplify business operations
- Fair, reciprocal, reasonable law means dealer and manufacturer are treated equitably
- Places RV industry in a separate chapter to avoid future conflict with auto franchise laws

What do we mean by a "unique business model"?

The RV industry operates on a one-dealer-to-many manufacturers model with *no true franchise relationship between parties in a manufacturer-dealer agreement*. But the auto industry is one-dealer-one-manufacturer and is based on a true franchise model. SB 764 places the RV industry in a separate chapter from the auto industry, finally allowing these two industries to operate separately under law as they do in fact.

Recognizing these differences in 2007, RV industry stakeholders and the Florida Legislature collaborated to craft and enact a comprehensive RV specific manufacturer-dealer bill. The legislation has stood for more than 10 years. In fact, a total of 17 states

enjoy such RV specific legislation: AL, AR, CA, DE, FL, GA, KY, LA, ME, MI, MO, MS, OK, OR, SC, TN and VA.

What the bill does

SB 764 modifies the existing Board of Vehicles Act (P.L. 306, No. 84) to create a separation between the automobile and recreation vehicle industries with respect to the board's regulation of RV manufacturer-dealer interactions.

First, the Board of Vehicles Act is amended by adding a new chapter heading, Chapter 1, Preliminary Provisions and revised numbering, which is done for better organization of the Act given the changes being made by SB 764.

Next, a new Chapter 3 heading is added for *Licensing law for RV manufacturers, dealers, and salespersons*. Again, the purpose of this chapter heading is to better organize the existing Act given the changes made by SB 764. Chapter 3 includes the following:

- Definition modifications are made where necessary to support separation of the automobile and RV industries in later sections of statute; and application of those definitions in the licensing law.
- For provisions where the RV industry previously was exempted from automobile franchise laws, those provisions stand.
- There are no changes to the motor vehicle board's administration and enforcement of the licensing laws for automobile or RV dealers and manufacturers.
- There are no changes to the RV or automobile show laws and Sunday sales at RV shows.
- Mediation procedures/protest provisions for disputes prior to seeking other relief under state law.
 - Mediation proves more effective for RV industry disputes. This also keeps the onus for the solution on the RV dealer and manufacturer, and not in the courts or in front of the board unless proven necessary.
 - Note: while these are in chapter 3, these provisions also govern Chapter 5 activities and actions between RV dealers, manufacturers, distributors and suppliers.

A new Chapter 5 is created to regulate specifically the RV manufacturer-dealer relationship.

- Rather than exempting the RV industry from each and every separate area where the automobile franchise and RV manufacturer-dealer agreement provisions differ, which was cluttering the code and creating confusion stemming from the fact that the two industries *do* differ, SB 764 creates new Chapter 5,

Recreational Vehicles, to address non-licensing manufacturer-dealer agreement issues. Both the automobile and RV provisions address the top-line functions of any vehicle manufacturer-dealer relationship: warranty obligations, transfer, termination and territory (exclusive area of sales responsibility). Such areas of the new law include:

- Warranty Obligations
 - Few RV manufacturers directly warrant components they don't design or fabricate. Components like the chassis and household appliances are warranted to the consumer by those suppliers. "Supplier warrantors" are included in warranty obligations.
- Termination, sale, or transfer of the dealership
 - RV dealers "terminate" manufacturer/dealer agreements for several reasons, one of which is to be more competitive. The law includes provisions that recognize this business activity.
 - Additional provisions in these sections protect both the dealer and the manufacturer equitably given the industry's unique business model.
- Mutual indemnification of dealer and manufacturer
- Recourse to state courts and the motor vehicle board is kept intact.
- Requirement for written manufacturer-dealer agreements
 - This is to professionalize the RV industry, which in some cases without this requirement would not use a written dealer agreement. The RV industry works on a one-dealer-many-manufacturers business model. There are 111 U.S. RV manufacturers with hundreds of line-makes competing for space on RV dealers' lots. RV dealers operating without written agreements are lacking protection.
- Pre-delivery inspection requirements with clear delineation of responsibilities among RV dealers and manufacturers.
- Prohibition of RV dealer coercion by the manufacturer

We believe this to be a fairly negotiated, comprehensive and well-drafted piece of legislation that solves problems and supports industry in Pennsylvania. The RV industry is grateful for your favorable consideration of SB 764.

I would be happy to answer any questions the Committee might have. Again, thank you for the opportunity to discuss this bill with you today.