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BILL ANALYSIS

Senate Fiscal Agency

Lansing, Michigan 48909

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MICHIGAN STATE LAW LIBRARY

Senate Bill 744

Sponsor: Senator Michael J. O'Brien

Committee: State Affairs, Tourism, and Transportation

Date Completed: 11-13-90

SUMMARY OF SENATE BILL 744 as introduced 1-23-90:

The bill would create the "Watercraft Dealer Licensing Act" to:

- Provide for the licensure and regulation of watercraft dealers. "Watercraft" would be defined as either a watercraft subject to titling under Public Act 160 of 1976, which provides for certificates for watercraft, or any other watercraft that is at least 20 feet in length or has a retail value of more than \$1,500, including permanently affixed motors, accessories, and outboard engines. "Watercraft dealing" would mean the activity of acquiring, buying, selling, trading, brokering, contracting to build, or otherwise dealing in new or used watercraft at retail as a regular business within this State.
- Specify application requirements including the requirement that an original dealer license application be accompanied by a properly executed surety bond of \$25,000 per year for each dealership sales office. The maximum potential liability of the surety would be \$25,000 times the number of years the bond was in effect, times the number of sales offices.
- Require a processing and investigation fee of \$75 for each original license application and a \$15 processing fee for each renewal application. The bill also would establish an annual license fee of \$50 to \$300 based on the gross dollar sales volume of the dealership.
- Prohibit the issuance of an original license until the Secretary of State had investigated the applicant's qualifications. The bill also would allow the Secretary of State to investigate the qualifications of a dealer seeking to renew a license or obtain a supplemental license.
- Provide for the issuance of wall licenses to be displayed in each sales office. A fee of \$7.50 per wall license would have to accompany original, renewal, and supplemental license applications. A \$5 fee would be charged for a duplicate wall license upon proof of loss, destruction, or mutilation of the original.
- Provide for an annual expiration date of December 31 for dealer licenses and require licenses to be renewed within 90 days prior to expiration. Any license not renewed within the specified time would become void and could be reinstated only upon application for reinstatement and payment of a \$25 reinstatement fee and renewal fees. A license not renewed within three months after expiration would require an original application and payment of any related fees.
- Require watercraft dealers to maintain records of each watercraft bought, sold, or exchanged by the dealer or otherwise accepted by the dealer for sale or exchange, and prescribe the contents of those records.
- Require dealers to provide a buyer with a written statement concerning the

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terms of the sale.

- Specify that a retail watercraft sale would be void unless the sale were evidenced by a written agreement signed by the buyer and the dealer or his or her agent, and the buyer acknowledged receipt of a copy of the agreement or actual delivery of the watercraft.
- Prohibit dealers from advertising or misrepresenting a watercraft year of manufacture as other than the model year, misapplying a deposit related to the purchase of a particular watercraft, or engaging in consumer fraud or any unfair or deceptive method, act, or practice.
- Specify the conditions under which a dealer could sell or exchange watercraft that are required to have certificates of title.
- Specify the duties, rights, and responsibilities of the Secretary of State in implementing the bill, including the right to conduct investigations of dealerships; mediate disputes; issue cease and desist orders; develop conditions of probation; deny, suspend or revoke a license; require financial restitution to be paid to a consumer; and impose a civil fine of up to \$15,000 for each violation as described in the bill.
- Specify that a dealer or agent who knowingly violated the bill would be guilty of a misdemeanor, punishable by imprisonment of up to 90 days, a fine of up to \$1,000, or both, for a first conviction, and imprisonment of up to one year, a fine of up to \$5,000, or both, for any subsequent violation. The bill also would require payment of damages and attorney fees if a person suffered damage or injury as a result of the violation.
- Provide that a violation of the bill, including operating without a license, would bar the violator from bringing or maintaining an action at law or equity on a contract entered into for the sale of a watercraft, and from asserting a lien on the watercraft, including repossession of it. Further, the customer would be entitled to recover any money paid to an unlicensed dealer for the purchase of a watercraft and retain ownership of it.

Legislative Analyst: L. Burghardt

FISCAL IMPACT

Fiscal information is not available at this time.

Fiscal Analyst: F. Sanchez

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