

HCS HB 1286 & 1175 -- MARINE DEALERS

SPONSOR: St. Onge (Guest)

COMMITTEE ACTION: Voted "do pass" by the Committee on Small Business by a vote of 15 to 0.

This substitute prohibits marine manufacturers from terminating or renewing a dealership agreement or substantially changing the competitive circumstances of a dealership without good cause. The substitute spells out the circumstances that are considered good cause.

Manufacturers will be required to provide a notice at least 90 days prior to any termination, cancellation, or nonrenewal of a dealership agreement. A dealer will have 90 days to cure any claimed deficiency. A dealer must provide notice of intent to cure deficiencies within the 90-day period. Termination will take effect 60 days after the dealer's receipt of the manufacturer's notice, unless the dealer has new inventory on hand. In that case, upon dealer request, it will take effect upon the sale of the remaining inventory but no later than 90 days from the manufacturer's notice of termination.

Dealers may terminate a dealer agreement at any time by giving written notice to the manufacturer at least 90 days prior to the effective date of the termination.

On change of ownership, dealers must give a 90-day written notice to the manufacturer. Manufacturers cannot refuse a proposed change or sale and may not disapprove or withhold approval unless the manufacturer can show its decision is based on a reasonable criterion such as business experience, moral character, financial qualifications, or criminal record. Manufacturers have 60 days to provide written notice of rejection of a proposed change or sale. The transfer provisions do not apply to the transfer to a successor in the event of a dealer's death.

The substitute provides for the repurchase of certain vessels when the dealer agreement is terminated by the manufacturer. It also provides for legal action upon unlawful termination or failure of renewal of a dealership.

FISCAL NOTE: No impact on state funds in FY 2005, FY 2006, and FY 2007.

PROPOSERS: Supporters say that the bill gives marine dealers protection in agreements made with manufacturers. Dealers make significant financial investments when they sign dealer agreements, and the bill will allow them to recover some of their

costs when a manufacturer cancels an agreement.

Testifying for the bill were Representative Guest; Larry Tague; Richard Collins; Lake of the Ozarks Marine Dealers Association; and Dennis Maze.

OPPONENTS: Those who oppose the bill say that manufacturers need to have dealers in areas where they can sell boats. The industry is dependent on having good dealers to sell the products and having a good product to sell. They are concerned about the effect of the bill on existing contracts. They are also concerned about legislative intrusion into the industry.

Testifying against the bill were National Marine Manufacturers Association; and Tracker Marine.

Amy Woods, Legislative Analyst