

LFC Requester:	Felix Chavez
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AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date Prepared: 2/6/2025

Check all that apply:

Bill Number: SB287

Original Correction
 Amendment Substitute

Sponsor: Sen. Linda M. Trujillo

Agency Name and Code Number: 305 – New Mexico Department of Justice

Person Writing

Short Title: Recreational Vehicle Manufacture & Dealer Act

Analysis: Mari Kempton

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
 Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator’s request. The analysis does not represent any official policy or legal position of the NM Department of Justice.

BILL SUMMARY

Synopsis: This bill would repeal and replace the current statutes in the Motor Vehicle Dealers Franchising Act, NMSA 1978, §§ 57-16-1 to -16 (1973, as amended through 2018) (the Act), regulating agreements between the manufacturers, warrantors, and dealers of recreational vehicles (RVs).

Sections 1 and 2 make minor amendments to Sections 57-16-2 and Section 57-16-3 of the Act to remove RVs from coverage under that Act and to clarify the definition of RV.

Section 3 creates the new section to provide a title for the Act, which is limited to Sections 3 through 13: “Recreational Vehicle Manufacturer and Dealer Act.”

Section 4 creates the definitions used in the new Act.

Section 5 creates new legislation that requires manufacturers to enter into agreements with dealers in order to sell RVs through a dealer and prohibits manufacturers and distributors from contracting with multiple dealers in the same area. It also requires dealers to notify manufacturers or distributors 30 days prior to entering into additional agreements to sell RVs in the same line-make for which they are contracted with the manufacturer or distributor.

Section 6 creates new legislation that prohibits manufacturers and distributors from terminating agreements with dealers except for “good cause” and limits terms that may be changed in renewal of agreements. It creates a set of 7 factors that a court may consider to determine whether good cause to terminate existed. Additionally, it imposes a 120-day notice period regarding intent to terminate, cancel, or decline renewal and allows the dealer 120 days to attempt to cure the deficiencies noticed. The notice period may be reduced to 30 days under 5 specified conditions, which include the dealer’s conviction of a felony and suspension of the dealer’s license. The Section further provides that a dealer may terminate the same agreement with or without good cause with 30 days notice, and defines 7 factors that may constitute good cause in that circumstance.

Section 7 creates new legislation that requires manufacturers to repurchase unsold RVs from dealers if the dealer cancels the distribution agreement for good cause, as well as when the manufacturer cancels without good cause.

Section 8 creates new legislation that requires dealers to notify manufacturers when they

desire to make a change in the ownership of the dealership and states that manufacturers can only object to the change in 5 specified circumstances and must object in writing.

Section 9 creates new legislation that outlines a dealer's rights when an RV is damaged in transport from the manufacturer to the dealer and allows a dealer to reject an RV that has an unreasonable amount of miles on the odometer upon arrival, which cannot be less than the distance between the factory and the dealership plus 100 miles.

Section 10 creates new legislation that prohibits manufacturers from coercing a dealer into entering into an agreement and other acts, including taking "any action that is unfair or unreasonable to the dealer."

Section 11 creates new legislation that provides detailed requirements for processing warranty claims made by dealers including allocation of repairs costs and indemnification.

Section 12 creates a civil cause of action for violations of the new Act and provides for attorney fees and actual damages to be awarded to the prevailing party. However, prior to filing suit, a plaintiff must serve a written demand and mediate the dispute. The Section tolls the statute of limitations during the mediation period and provides that if a party files suit prior to serving the required notice, the court should enter an order suspending the action pending completion of mediation. Parties split the cost of mediation. Mediation is not required if the action is only for injunctive relief.

Section 13 creates new legislation that gives the Tax and Revenue Department the power to suspend or revoke licenses for violations of the new Act and assess a penalty of \$1,000 per violation and creates an appeal process.

Section 14 repeals the existing section regulating RV franchise agreements, § 57-16-6.2.

Section 15 sets an effective date of January 1, 2026.

FISCAL IMPLICATIONS

N/A.

SIGNIFICANT ISSUES

State laws that discourage or prohibit arbitration clauses have been found to be preempted by the Federal Arbitration Act, which promotes arbitration. *AT&T Mobility LLC v. Concepcion*, 563 U.S. 333, 341 (2011). Section 10(A)(4) could be subject to preemption challenges on that basis.

Section 5 may raise challenges regarding anticompetition under Section 2 of the Sherman Act.

Section 6 may raise challenges regarding freedom to contract. For example, limiting a manufacturer's or distributor's ability to decline to *renew* unless good cause exists may prove particularly problematic. This issue may be exacerbated when considering the provision later in Section 6 that a *dealer* may cancel, terminate, or not renew at any time, with *or without* good cause, with thirty days' notice.

Some of the issues identified in Section 5 and 6, as well as, e.g., Section's 7's requirement that if a dealer terminates, cancels, or fails to renew an agreement for good cause they can require the

manufacture or distributor to repurchase merchandise, may also raise commerce clause challenges.

PERFORMANCE IMPLICATIONS

N/A.

ADMINISTRATIVE IMPLICATIONS

N/A.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

N/A.

TECHNICAL ISSUES

N/A.

OTHER SUBSTANTIVE ISSUES

Several provisions of the bill are vague and would likely be difficult to interpret in practice, including Section 10's prohibition on "coercing" or "attempting to coerce" dealers into purchasing products, entering into agreements, "taking actions that are unfair or unreasonable to the dealer," where "coercion" is defined in Section 4 to mean "threatening to terminate, cancel or not renew [an agreement] without good cause or threatening to withhold product lines or delay product delivery as an inducement to amending the agreement." The obligations in Section 5 for manufacturers to distribute new RVs to dealers "in a fair and equitable manner" and to provide dealers with "adequate technical data to perform proper service and repairs" is likewise vague. The 6 and 7 factor tests to determine good cause to cancel an agreement also pose difficulty for application.

ALTERNATIVES

N/A.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS

N/A.