

BILL ANALYSIS AND FISCAL IMPACT REPORT
Taxation and Revenue Department

February 11, 2025

Bill: SB-287

Sponsor: Senator Linda M. Trujillo

Short Title: Recreational Vehicle Manufacture & Dealer Act

Description: This bill enacts the Recreational Vehicle Manufacture & Dealer Act, and creates many new sections related to the creation of that Act. As related to the Taxation and Revenue Department (Tax & Rev), it provides that if Tax & Rev finds that a dealer, manufacturer or distributor has violated a provision of the new Act, Tax & Rev may suspend or revoke the license of the dealer, manufacturer or distributor. Similarly, if Tax & Rev finds that a person has violated a provision of the Recreational Vehicle Manufacturer and Dealer Act, the department may assess and collect an administrative penalty against the person in an amount up to \$1,000 for each violation. It also adds that a person, dealer, manufacturer or distributor may appeal Tax & Rev’s decision to the Administrative Hearings Office (AHO) and may then appeal the AHO’s decision to district court if necessary.

Effective Date: January 1, 2026

Taxation and Revenue Department Analyst: Lucinda Sydow, Pedro Clavijo, Sara Grubbs, Htet Gonzales and Sean Bulian – Motor Vehicle Division

* In thousands of dollars. Parentheses () indicate a revenue loss. ** Recurring (R) or Non-Recurring (NR).

Estimated Revenue Impact*					R or NR**	Fund(s) Affected
FY2025	FY2026	FY2027	FY2028	FY2029		
					R	General Fund
Indeterminate						

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Methodology for Estimated Revenue Impact: Tax & Rev cannot predict how many \$1,000 penalties will be assessed pursuant to this new act. Penalty assessments will be deposited general fund since the bill does not stipulate another distribution.

Policy Issues:

The bill enacts the Recreational Vehicle Manufacturer and Dealer Act, which provides that a manufacturer or distributor shall not sell a recreational vehicle to or through a dealer without first entering into an agreement with the dealer. It also provides that a dealer or manufacturer may terminate any agreement for good cause and that the manufacturer may repurchase new, untitled recreational vehicle inventory. Upon delivery from the manufacturer, dealers may request that manufacturers fix or replace damaged components caused during transit or reject the damaged vehicle. The bill allows for the Taxation and Revenue Department to assess and collect an administrative fee up to \$1,000 per violation should a dealer, manufacturer, or distributor violate any provision of this act. Additionally, while dealerships can have their licenses revoked or suspended, there are no direct financial penalties imposed. This raises the concern that a dealership could potentially reincorporate under a different name and obtain a new license. This bill also allows the Taxation and Revenue Department to suspend or revoke a dealer’s license without a hearing before the Administrative Hearings Office. This would be contrary to the procedure for motor vehicle dealers. Before a motor vehicle dealer’s license can be suspended or revoked,

there must be a hearing before the AHO. It also adds that a dealer, manufacturer, or distributor may appeal violations to the administrative hearings office for a hearing should they disagree.

Technical Issues: This bill amends Chapter 57 Article 16 – Motor Vehicle Dealers Franchising definition of a motor vehicle to no longer include recreational vehicles. It also expands the definition of a recreational vehicle to include motor homes, travel trailers, fifth wheel travel trailers, truck campers, and folding camping trailers. The proposed definition updates in Chapter 57 do not align with Motor Vehicle Code Chapter 66 where a "motor vehicle" means every vehicle that is self-propelled and every vehicle that is propelled by electric power obtained from batteries or from overhead trolley wires, but not operated upon rails, including an electric mobility device, but does not include an electric-assisted bicycle. Chapter 66 also defines a recreational vehicle as a vehicle with a camping body that has its own motive power, is affixed to or is drawn by another vehicle and includes motor homes, travel trailers and truck campers. It is recommended that the definitions presented in Chapter 57 be the same or similar as those in Chapter 66.

Other Issues: The proposed legislation contains provisions that could affect existing contractual relationships between dealers and manufacturers or distributors. Both the United States and New Mexico Constitutions contain prohibitions on states from enacting legislation that impairs the obligation of contracts. (U.S. Const. art. I, § 10, cl. 1 and N.M. Const. art. II, § 19) The Constitutional clauses do not operate to prevent the Legislature from regulating commercial relationships. Courts typically begin by examining the legislation to determine whether the state law has operated as a substantial impairment of a contractual relationship. The severity of the impairment increases the level of scrutiny to which the legislation will be subjected. If the proposed legislation imposes new obligations on the parties (e.g., exclusive territories, mandatory buy-backs of vehicles, parts, and equipment) the enforceability of the new provisions may be struck down as an impermissible impairment. As the New Mexico Supreme Court said in *Los Quatros, Inc. v. State Farm Life Ins. Co*, 1990-NMSC-082, ¶ 28, “[i]f the answer to the threshold inquiry is that the state regulation does indeed constitute a substantial impairment, the state ‘must have a significant and legitimate public purpose behind the regulation,’ so that there is some guarantee that the state ‘is exercising its police power, rather than providing a benefit to special interests.’”

On page 14, Section 5 (E)(1) may not be enforceable because it is vague by virtue of its use of the term “equitable manner.” A requirement that a manufacturer or distributor distribute product to dealers in a fair manner is probably okay. There has long been a requirement that commercial parties not violate an implied obligation of good faith and fair dealing. But what does a “fair and equitable manner” exactly mean? Is the use of the word “equitable” intended to create an obligation beyond fairness?

On pages 27-28, Section 11 (B)(4) may not be enforceable because it is vague by virtue of its use of the term “customer is acting in a manner detrimental to its business.”

On page 32, Sections 13 (A) and (B) mention the taxation and revenue department as the department that administers the proposed law. It would likely fall under the province of the Motor Vehicle Division. Also on page 32, Section (A) says that the department may suspend or revoke the license of the dealer, manufacturer or distributor. However, MVD only licenses dealers. It does not license manufacturers or distributors, so it does not make sense to say that the department (or MVD) may suspend or revoke the licenses of manufacturers or distributors.

Administrative & Compliance Impact: Implementation of this bill will have a moderate impact on Tax & Rev’s Information Technology Division (ITD). The estimated time to develop, test, and implement the changes is approximately 320 hours or 2 months for an estimated \$21,325 of staff workload cost.

This bill requires the addition of a new violation code in Tapestry for the violation of the Recreational

Vehicle Manufacturer and Dealer Act.

MVD and FDB staff will need to verify Tapestry system changes by conducting selected tests of data, functionality, and reporting, including performing a mock distribution before authorizing Tapestry to implement these changes.

Estimated Additional Operating Budget Impact*				R or NR**	Fund(s) or Agency Affected
FY2025	FY2026	FY2027	3 Year Total Cost		
	\$21.3			NR	MVD Suspense Fund – Staff Workload Cost

* In thousands of dollars. Parentheses () indicate a cost saving. ** Recurring (R) or Non-Recurring (NR).

Related Bills: