

Testimony of the Recreation Vehicle Industry Association by
Christine Siksa, Director of Government Affairs

**Regarding the
Joint Committee on Transportation Hearing on**

H 5453 - An Act Concerning Recreational Vehicle Franchises

March 10, 2010

Room 1-E of the Legislative Office Building
Hartford, Connecticut

Good Morning, Chairman DeFronzo and Chairman Guerrero; Vice-Chairmen Duff, Kehoe and Mikutel; ranking members, and committee members.

My name is Christine Siksa, and I am director of government affairs at the Recreation Vehicle Industry Association. Our Association represents the manufacturers and suppliers of nearly every motor home and travel trailer produced in the U.S. – America's family camping vehicles.

I would like to introduce Chris Andro, who is the general manager of Hemlock Hill RV Sales of Southington, Connecticut.

I will provide short testimony here, but ask that my full written testimony be incorporated into the record.

Although House Bill 5453 contains a complete franchise statute for recreation vehicles, we have selected two key areas of franchise law – warranty and repurchase – for which we recommend adding motor home specific provisions. Because motor homes are motor vehicles as defined by Connecticut statute, currently they are covered by the Connecticut automobile franchise laws as in effect January 1, 2009. However, the automobile and motor home industries have several important differences. These changes will address those differences.

Key benefits of the shortened proposal are that it does not anticipate the establishment of any additional oversight or administrative offices in Connecticut's government so it will not cost Connecticut taxpayers anything; it is consumer-oriented, and it will enhance legislative efficiency when either the automobile or motor home warranty or repurchase statutes are opened. Amendments made to sections that address motor homes and automobiles separately will no longer provoke additional amendments from the other industry.

The shortened proposal would accomplish the following:

- Address the unique business practices of the recreation vehicle industry. For example, it would establish:
 - A warranty section that addresses warranty obligations for motor homes which are built in multiple stages, unlike automobiles, and therefore have multiple warrantors.
 - Franchise provisions that take into account that motor home dealers carry numerous manufacturers and multiple lines on a single dealer's lot with no requirement for exclusivity by manufacturers. Motor home dealers have over 40 motor home manufacturers and hundreds of products from which to choose.

- Provisions which recognize the fact that motor home manufacturers do not impose facilities requirements on their dealers.
- Keep in place such state administrative matters as fees, licensing, and place of business requirements (*Conn. Gen. Stat. §§ 14-1(40), 14-52(a), 14-52a, 14-53, 14-54, 14-58(a) and 14-67a; and sections 14-63-2(c), (e) of the Regulations of Connecticut State Agencies*), and other sections of applicable laws that are outside of sections 42-133r to 42-133ee, but are necessary to the function of these sections.

In the 2009 session, this committee approved an amendment to its omnibus transportation bill (S 1081) which recognized the differences between the motor home and automobile industries. It allowed motor homes to remain under the automobile franchise law as it stood on January 1, 2009 despite several changes to the automobile franchise laws last year. Those changes primarily addressed both the recent mass cancellation of dealer franchises and the general recasting of the US automobile business in the wake of recent economic shocks.

Additionally, over the past few years, in seven states (California, Florida, Georgia, Michigan, Missouri, Oregon and Virginia), RV-specific bills have been negotiated by RV manufacturers and dealers, and enacted to address their unique business relationship.

I believe that these changes to the franchise statute have legislative merit, and look forward to working cooperatively with this Committee and my industry colleagues to establish motor home specific franchise provisions that are fair and balanced for both motor home dealers and manufacturers.

Respectfully submitted,

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Explanation of changes to sections 42-133r, s, t, v, w and x necessary to accommodate specific franchise language for motor home dealers and manufacturers

Definitions

Definitions necessary to support the provisions outlined below would be added to sec. 42-133r.

Need for separate warranty sections

Motor homes are multi-stage vehicles which have components unique from the automobile industry (stoves, microwaves, generators, toilets...) which are separately warranted directly to the consumer, just as they are in a home. "Warrantors" as defined in this proposal are not found in the automobile industry. However, in the motor home industry, a warrantor needs to be identified and included in the statute in order to enforce their warranty obligations to a dealer. To use the term "warrantor" in the franchise statute, it must be in the definitions (§ 42-133r). Section 42-133s includes new provisions for motor home warrantors. (The term "warrantor" does not appear to be used elsewhere in the Connecticut statutes. If it is, it could be specified that the definition in the franchise statute applies only to motor homes in the appropriate sections.)

Sec. 42-133t has to do with damage to vehicles during transport, and which party assumes liability (dealer or manufacturer). Motor home specific language should be amended to this section. Motor homes are usually driven to their sales destination, not moved on car carrier trucks as automobiles are. Further, because of the size and complexity of motor homes, special provisions that address these attributes are needed. The inspection upon delivery language in the motor home warranty section refers to this section.

Need for motor home-specific repurchase provisions after cancellation of a franchise

Sec. 42-133w(a)(1) refers to the repurchase of vehicles from the current and prior model years. However, the term "model year" is very different when applied to the motor home industry. Unlike the automobile industry, new models of motor homes can be introduced at any time. This means that a dealer could have "current" vehicles spanning 2009, 2010 and 2011, whether from the same or different manufacturers. Therefore, motor home specific repurchase language refers to vehicles purchased in a period of time from the manufacturer prior to the termination.

Amendments related to repurchase, line-makes, and assistance upon termination

The phrase "upon the termination...of any franchise" at § 42-133w(a) concerns RVIA because it appears to include that a dealer can terminate a manufacturer without cause and obtain repurchase benefits. We agree that a dealer ought to be able to end a relationship with a manufacturer for cause and decide whether he wants the manufacturer to repurchase the vehicles, or terminate without cause and not obtain repurchase benefits. This is based on aspects of the motor home business that are not found in the automobile business.

The typical motor home dealer can choose to carry products from several different manufacturers on a single sales lot. This provides tremendous flexibility to the motor home dealer. Because there are over 40 motor home manufacturers constantly competing for space on a dealer's lot, motor home dealers are in a favorable bargaining position to choose the ideal combination of products and manufacturer terms to provide optimal sales and profits. Motor home dealers can tailor their product mix to reflect changes in consumer demand, economics, manufacturer requirements, and other factors. Consequently, a motor home dealer can elect to

drop or not renew one or more manufacturer's products, and obtain new vehicles from other manufacturers within a short time period, compared to what an automobile dealer experiences.

This currently occurs as a common business practice in the RV industry, but it does not trigger mandatory repurchase provisions. Permitting motor home dealer-initiated termination or nonrenewal without cause with mandatory repurchase means that dealers can use this as a means of inventory control. There are three serious repercussions from this:

- First, motor home manufacturers are not large international corporations with the financial wherewithal to withstand multiple repurchases. Such a provision can bankrupt motor home manufacturers, which actually has happened, to the detriment of all parties including consumers.
- Secondly, motor home dealers will be negatively affected by such provisions because imprudent dealers that cancel manufacturers and initiate buy-backs as a means of inventory control create a glut of inventory. The motor home marketplace is much smaller than that of autos, and motor homes are expensive, discretionary items. A glut of inventory quickly devalues investments made by other dealers with similar inventories. Such provisions allow imprudent motor home dealers to destroy the value of the inventory of prudent dealers.
- Finally, it reduces the confidence of floorplan lenders in the motor home lending business. Because floorplan lending is based on the financial health of both the dealer AND the manufacturer, unilateral dealer termination/inventory repurchase provisions will make it increasingly difficult for motor home dealers to acquire floorplan loans and for manufacturers to finance their businesses. Lenders could tighten up floor planning if they have no confidence the inventory will not be returned to the manufacturer. (Note: floorplanning is obtaining financing from a lender to purchase new vehicles. The financing is paid off as the vehicles are sold. More new vehicles can then be purchased. It is a revolving line of credit for most dealers).

However, the motor home-specific franchise language we propose does have a provision dealer-initiated termination with cause – the reciprocal of a manufacturer termination with cause. It includes inventory repurchase at the dealer's option. If RV dealers want the ability to continue selling the vehicles post-termination, in the absence of a franchise, a legislative fix might be needed. This has been negotiated and enacted in another state which also requires a franchise agreement in order to sell new vehicles. Amendments to the automobile franchise sections 42-133v and w would address these differences between the two industries.

Conn. Gen. Stat. § 42-133x addresses facilities assistance to a dealer upon termination. Facilities assistance under auto franchise laws assumes the dealer is out of business or nearly so, and the property that was used for the display and sale of the product, in which the dealer has made significant investment imposed by the automobile manufacturer, is now without use to the auto dealer, yet is still a liability to him or her. In the motor home business, manufacturers do not impose expensive facilities design, style or improvements requirements on dealers. Motor home dealers carry several manufacturers, and usually more than one line from those manufacturers. When a line is dropped by the manufacturer, or when a motor home dealer chooses not to renew or drops a line, the dealer continues to use the facilities for the display and sale of other motor homes. A dealer is able to replace the motor home line relatively easily and quickly if he or she choose with a new franchise, compared to what an automobile dealer would experience. Therefore, it is not reasonable to require the motor home manufacturer to pay facilities assistance to its dealer. The motor home dealer has not lost any significant investment in facilities imposed by the manufacturer, is not forced out of business by the manufacturer, and continues to use the facility for motor home sales and service.

Line-make termination vs. motor home products, and goodwill payments (sec.42-133x)

One of the fundamental differences between the automobile and recreation vehicle industries is illustrated by the meaning of the term "line-make."

The term "line-make" is well understood in the auto industry, which is probably why it is not defined in Connecticut statutes as far as we were able to determine. For example, a General Motors "line-make" is easily identified as a Chevrolet, Buick, GMC, etc. which refers to all models that together make up a certain line of vehicles that constitute a franchise. The provisions of Connecticut's automobile franchise law prescribe rights and obligations (relevant market area, relocation, termination, etc.), which are predicated upon a specific "line-make."

However, the RV industry lacks an analogous "line-make" distinction. RV or motor home manufacturers and dealers do not even use the term "line-make" in their common industry terminology. An RV manufacturer will likely offer several distinctly different product types, including Type A motor homes (gasoline); Type A motor homes (diesel); Type B motor homes; Type C motor homes; travel trailers; lightweight trailers; fifth-wheel travel trailers; and folding camper trailers.

While some RV manufacturers might have brand names specific to a type of motor home, others have brand names that span some or all RV product types. In many cases, this leads to several of an RV manufacturer's vehicle types sharing a brand name but having nothing in common other than that name. Further, within each vehicle type, manufacturers usually offer dozens of significantly different sizes, styles, floor plans and price points.

In the motor home business, the vehicles are hand-made practically one at a time. Manufacturers can relatively quickly change, replace, drop or add new motor home products in response to market demand, dealer recommendations, and changing market conditions. However, the end of a certain motor home product's production does not mean that the motor home dealer is out of business or nearly so. It is not analogous to the termination of the Pontiac or Saturn line. Dealers in the motor home industry have more flexibility and choice under their dealer agreements than the somewhat more restrictive, lengthy and involved automobile franchise agreements. The motor home retailer can add a new product from one of more than 40 manufacturers competing for space on the dealer's lot if they choose. A motor home dealer usually carries several different manufacturers and several lines from each of those manufacturers. The termination or cancellation of a line-make in the motor home business is an ordinary business activity, not a situation where a dealer potentially will be put out of business.

Likewise, payment by a motor home manufacturer for goodwill is unreasonable. Unlike an automobile dealer who invests in, sells and is identified with a specific brand of automobile, motor home dealerships are not vested with a single manufacturer. Rather, they are recognized as a motor home dealer that retails multiple motor home or recreational vehicle products.

Therefore, payments for line-make termination and goodwill in the RV business are not equivalent to those in the auto business and do not reasonably merit special termination assistance consideration.