

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Commerce Committee

BILL: PCS/ SB 954

INTRODUCER: Commerce Committee and Senator Diaz de la Portilla

SUBJECT: Auto Dealers Pre-Delivery Service Fee

DATE: April 7, 2008

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Pugh</u>	<u>Cooper</u>	<u>CM</u>	<u>Pre-meeting</u>
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

PCS/SB 954 modifies Part VI of ch. 501, F.S., which regulates motor vehicle dealer actions under the Florida Deceptive and Unfair Trade Practices Act (FDUTPA), to provide additional motor vehicle pricing information to consumers.

The PCS defines the “advertised priced” of a vehicle for FDUPTA purposes, and requires that advertisements include all costs, fees, or charges that the customer must pay, excluding state and local taxes, tag fees, registration fees, and title fees.

It also requires motor vehicle dealers to attach a label to for-sale vehicles (except for motorcycles) that discloses any charges for pre-delivery services, such as inspecting, cleaning, adjusting and preparing paperwork.

PCS/SB 954 amends ss. 501.975 and 501.976, of the Florida Statutes.

II. Present Situation:

Disclosure of motor vehicle sales prices¹

Florida has a number of laws to protect consumers. The principle law relating to the automobile dealer-consumer relationship is Part VI of ch. 501, F.S. This section of law describes prohibited dealer actions under the Florida Deceptive and Unfair Trade Practices Act (FDUTPA), and

¹ This section of the bill analysis is derived from the Commerce Committee’s Interim Project Report 2008-107, “Examination of Automobile Dealers’ Documentation Fees.”

provides guidelines regarding motor vehicle pricing and notice to consumers. The state law supplements federal law in this area.

Federal law (the Monroney Act)² requires manufacturers to affix to each new automobile a sticker that shows the suggested retail sales price for each vehicle. This sticker must be attached to the side window of the vehicle and state several items of information, including the:

- Make and model of the car;
- Serial or identification numbers;
- Final assembly point;
- Name and location of the final dealer to whom it is delivered;
- Method of transportation used in making the delivery;
- Manufacturers' Suggested Retail Price (MSRP);
- MSRP of optional equipment installed on the vehicle;
- Transportation charges for delivery of the vehicle from the manufacturer;
- Total MSRP of all of the aforementioned charges; and
- Environmental Protection Act's mileage estimates for the vehicle.³

In addition to the "Monroney Sticker," consumers also may see a supplemental sticker, known as the "Dealer Addendum Sticker," which shows the suggested retail price of dealer-installed options. This dealer sticker also may list the dealer preparation fee and the pre-delivery service fee. At the dealer's option, the dealer sticker may include a total of the charges listed on both stickers.

It is generally recognized in the automobile sales industry that the charges listed on the Monroney and dealer stickers may be negotiable.

Vehicle purchasers also are required to pay several fees imposed by state law, such as sales tax, title, registration, licensing, new tire fees and a battery fee. These fees are not negotiable, and typically are not included on the Monroney or dealer sticker.

Other fees associated with car purchases

When the potential car-buyer meets with a sales person or business manager to negotiate a final sales price for a vehicle, fees for options not listed on the Monroney or dealer sticker may be disclosed. These options may include:

- Warranties, in addition to factory warranties;
- "Gap" insurance, to pay the difference between a car loan and vehicle value if a vehicle is "totaled";
- Paint protection;
- Security Systems; and
- Service plans for scheduled maintenance.

² 15 U.S.C. § 1231, et. seq. (the Monroney Act). Motorcycles are exempt from the act's requirements, pursuant to a cross-referenced definition in 49 U.S.C. § 32101(10).

³ Autopedia, Monroney Sticker History, <http://autopedia.com/html/monroneysticker.html>. (summarizing 15 U.S.C. § 1232), last visited August 31, 2007.

At some point in the sale's process, the dealer completes a "Buyer's Order"⁴ or similar document listing the costs to the consumer of the vehicle selected. If imposed, the dealer's pre-delivery service fee is required to be specified on this document. The pre-delivery service fee is also referred to as a documentation or documentary fee ("Doc Fee"), dealer fee, dealership services fee, dealer service fee, dealer preparation fee, delivery or handling fee, or processing fee.

Committee staff research indicates most dealers in Florida impose this fee, which is intended to either increase dealer profit or offset costs incurred by the dealer in preparing the vehicle and associated documents for the customer. The statutes recognize this industry practice and require the following statement be included on all documents that include a line-item for the fee:

"This charge represents costs and profit to the dealer for items such as inspecting, cleaning, and adjusting vehicles, and preparing documents related to the sale."⁵

In Florida, this fee varies among dealerships and, at times, among customers of the same dealership, and pre-delivery service fees are widely imposed by new and used automobile dealers.⁶

At least 13 other states impose limits on pre-delivery service fees in the following manner:

- Arkansas -- \$129;
- California -- \$55;
- Illinois -- \$55;
- Louisiana -- \$50 (\$35 documentation fee plus \$15 notary fee);
- Maryland -- \$100;
- Michigan -- \$170;
- Minnesota -- \$50;
- New York -- \$45;
- Ohio -- \$250;
- Oregon -- \$50;
- Texas -- \$75; and
- Washington -- \$100.⁷

Additionally, in recent years several states have expanded notice requirements to consumers of dealer charges and fees. For example, California recently passed a "Car Buyer's Bill of Rights" that, among other requirements, prohibits motor vehicle dealers from excluding from the advertised price of a vehicle, all costs to the purchaser at the time of sale, including the dealer document preparation charge. A 2007 Arkansas law also requires notice to customers of the fee

⁴ The Buyer's Order "is a sales contract between the buyer and the seller that includes the sale price of the vehicle and any additional fees and charges that will be assessed during the sales transaction." Ted L. Smith, President, FADA. (Sept. 27, 2007).

⁵ Section 501.976(18), F.S.

⁶ Interim Project 2008-107, "Examination of Automobile Dealers' Documentation Fees." Prepared by staff of the Senate Commerce Committee. Page 6.

⁷ Ibid, Page 7.

in the form of a disclaimer noting that the fee is not a government fee and may result in profit to the dealer.⁸

III. Effect of Proposed Changes:

Section 1 amends s. 501.975, F.S., to define “advertised price” of a motor vehicle as “the price expressed in any statements – transmitted orally, in writing, electronically, or illustratively – disseminated to the public or affixed to a vehicle, that is used to induce a customer to buy the vehicle. This provision, in concert with the proposed changes in Section 2 of the bill, is intended to clarify that a vehicle’s sales price prominently displayed in advertisements, or painted on or otherwise attached to a for-sale vehicle, includes all the costs, fees, or charges that a dealer decides to charge a customer, excluding required state and local-government taxes or fees.

Section 2 amends s. 501.976, F.S., to clarify that the advertised price excludes state and local taxes, and tag, registration and title fees. Accordingly, the advertised price includes all the costs, fees, or charges that the dealer decides to charge a customer.

This section also replaces existing language regulating the advertised price of vehicles that are the subject of joint advertising by two or more dealers. Currently, the advertised price need not include any fees or charges that vary from one participating dealer to the next. This section, however, specifies that the advertised price of a jointly advertised vehicle must include the highest price of the vehicle being offered, or specify the price for the vehicle as set by each participating dealer.

Additionally, dealers who display their vehicles for customers’ public inspection must attach a conspicuous label to the vehicles’ windows, specifying any charge for pre-delivery services. The label also must include the following disclosure:

“This charge represents costs and profit to the dealer for items such as inspecting, cleaning, and adjusting vehicles, and preparing documents related to the sale.”

The label wording is identical to that currently required to be printed on all documents that include a pre-delivery service charge, pursuant to s. 501.976(18), F.S.

The new label requirement does not apply to motorcycles.

Section 3 specifies that this act shall take effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

⁸ Ibid, Page 7.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

Indeterminate. Automobile shoppers may be more inclined and better informed to negotiate with dealers, since certain charges designed as profit-makers for dealers will be disclosed earlier in the car-buying process. Automobile dealers may see a reduction in profits on individual sales of cars if they have to disclose their profit mark-up in such a visible fashion.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.