



Judiciary Committee

February 21, 2013

12:00PM

404 HOB

Action Packet

COMMITTEE MEETING REPORT

Judiciary Committee

2/21/2013 12:00:00PM

Location: 404 HOB

Summary:

Judiciary Committee

Thursday February 21, 2013 12:00 pm

CS/HB 55	Favorable With Committee Substitute	Yeas: 11	Nays: 2
Amendment 350481	Adopted Without Objection		
Amendment 860061	Failed to Adopt		
Amendment 770213	Failed to Adopt		
Amendment 156077	Adopted Without Objection		
HB 351	Favorable With Committee Substitute	Yeas: 11	Nays: 2
Amendment 904485	Adopted Without Objection		
CS/HB 4019	Favorable	Yeas: 13	Nays: 0

Committee meeting was reported out: Thursday, February 21, 2013 3:02:04PM

COMMITTEE MEETING REPORT

Judiciary Committee

2/21/2013 12:00:00PM

Location: 404 HOB

Attendance:

	<i>Present</i>	<i>Absent</i>	<i>Excused</i>
Dennis Baxley (Chair)	X		
Daphne Campbell			X
Dwight Dudley	X		
Heather Fitzenhagen	X		
Clay Ford			X
Matt Gaetz	X		
Bill Hager	X		
Dave Kerner			X
Charles McBurney	X		
Kionne McGhee	X		
Larry Metz	X		
Jared Moskowitz			X
Kathleen Passidomo	X		
Ray Pilon			X
Kenneth Roberson	X		
Elaine Schwartz	X		
Ross Spano	X		
Charlie Stone	X		
Totals:	13	0	5

Committee meeting was reported out: Thursday, February 21, 2013 3:02:04PM

COMMITTEE MEETING REPORT

Judiciary Committee

2/21/2013 12:00:00PM

Location: 404 HOB

CS/HB 55 : Deceptive and Unfair Trade Practices

Favorable With Committee Substitute

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Daphne Campbell			X		
Dwight Dudley		X			
Heather Fitzenhagen	X				
Clay Ford			X		
Matt Gaetz	X				
Bill Hager	X				
Dave Kerner			X		
Charles McBurney	X				
Kionne McGhee	X				
Larry Metz	X				
Jared Moskowitz			X		
Kathleen Passidomo	X				
Ray Pilon			X		
Kenneth Roberson	X				
Elaine Schwartz		X			
Ross Spano	X				
Charlie Stone	X				
Dennis Baxley (Chair)	X				
Total Yeas: 11		Total Nays: 2			

CS/HB 55 Amendments

Amendment 350481

Adopted Without Objection

Amendment 860061

Failed to Adopt

Amendment 770213

Failed to Adopt

Amendment 156077

Adopted Without Objection

Appearances:

Bielecky, William (General Public) - Opponent
1940 W Indian Head Dr
Tallahassee FL 32301
Phone: 850-521-0022

Committee meeting was reported out: Thursday, February 21, 2013 3:02:04PM

COMMITTEE MEETING REPORT

Judiciary Committee

2/21/2013 12:00:00PM

Location: 404 HOB

CS/HB 55 : Deceptive and Unfair Trade Practices (continued)

Appearances: (continued)

Vickers, Alice (Lobbyist) - Opponent
Florida Consumer Action Network
623 Beard Street
Tallahassee FL 32303
Phone: 850-556-3121

Gustafson, Jim (General Public) - Opponent
FJA
1567 Cristobal Drive
Tallahassee FL 32303
Phone: 850-224-7600

Pitts, Brian - Information Only
Justice-2-Jesus
1119 Newton Ave. S.
St. Petersburg FL 33705
Phone: 727-897-9291

Peeples, Winn (Lobbyist) - Proponent
Florida Motorcycle Dealers Association
335 Beard St
Tallahassee FL 32303
Phone: (850)524-2038

Forehand, John (Lobbyist) - Proponent
South Motors
16165 S Dixie Hwy
Miami FL 33133

Smith, Ted (Lobbyist) - Waive In Support
Florida Automobile Dealers Association
400 N Meridian St
Tallahassee FL 32301
Phone: (850)224-2580

Mallette, Kelly (Lobbyist) - Waive In Support
AutoNation, Inc
110 SE 6th St
Ft Lauderdale FL 33301
Phone: (305)935-1866

Committee meeting was reported out: Thursday, February 21, 2013 3:02:04PM

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	—	(Y/N)
ADOPTED AS AMENDED	—	(Y/N)
ADOPTED W/O OBJECTION	—	(Y/N)
FAILED TO ADOPT	—	(Y/N)
WITHDRAWN	—	(Y/N)
OTHER	_____	

*Favorable
2-21-13*

1 Committee/Subcommittee hearing bill: Judiciary Committee
2 Representative Gaetz offered the following:

Amendment

5 Remove lines 48-141 and insert:

6 501.98 Demand letter.—

7 (1) As a condition precedent to initiating any civil
8 litigation, including arbitration, arising under this chapter
9 against a motor vehicle dealer, which may also include its
10 employees, agents, principals, sureties, and insurers, a
11 claimant must give the dealer a written demand letter at least
12 30 days before initiating the litigation.

13 (2) The demand letter, which must be completed in good
14 faith, must:

15 (a) State the name, address, and telephone number of the
16 claimant.

17 (b) State the name and address of the dealer.

18 (c) Describe the underlying facts of the claim, including a
19 statement describing each item for which actual damages are
20 claimed.

Amendment No. 1

21 (d) State the amount of damages, or if not available, the
22 claimant's best estimate of the amount of damages.

23 (e) To the extent available to the claimant, be accompanied
24 by all transaction or other documents upon which the claim is
25 based.

26
27 In any challenge to the claimant's compliance with this
28 subsection, the demand letter shall be deemed satisfactory if it
29 contains sufficient information to reasonably put the dealer on
30 notice of the nature of the claim and the relief sought.

31 (3) The demand letter must be delivered by the United
32 States Postal Service or by a nationally recognized carrier,
33 return receipt requested, to the address where the subject
34 vehicle was purchased or leased, where the subject transaction
35 occurred, or any address at which the dealer regularly conducts
36 business.

37 (4) Notwithstanding any provision of this chapter:

38 (a) A claimant may not initiate civil litigation, including
39 arbitration, against a dealer or its employees, agents,
40 principals, sureties, or insurers for a claim arising under this
41 chapter related to, or in connection with, the transaction or
42 event described in the demand letter if, within 30 days after
43 receipt of the demand letter, the dealer pays the claimant the
44 amount sought in the demand letter, plus a surcharge of the
45 lesser of \$500 or ten percent of the damages claimed.

46 (b) A dealer and its employees, agents, principals,
47 sureties, and insurers may not be required to pay the attorney

Amendment No. 1

48 fees of the claimant in any action brought under this chapter
49 if:

50 1. The dealer, within 30 days after receipt of the demand
51 letter, notifies the claimant in writing, and a court or
52 arbitrator agrees in any subsequently filed litigation, that the
53 amount sought in the demand letter is not reasonable in light of
54 the facts of the transaction or event described in the demand
55 letter or if the demand letter includes items and amounts not
56 properly recoverable under this chapter; or

57 2. The claimant fails to sufficiently comply with this
58 section; however, to the extent that there is a challenge to the
59 sufficiency of the demand letter, the demand letter shall be
60 deemed satisfactory if it contains sufficient information to
61 reasonably put the dealer on notice of the nature of the claim
62 and the amount and relief sought such that the dealer could
63 appropriately respond.

64 (5) The demand letter required by this section expires 30
65 days after receipt by the dealer, unless renewed by the
66 claimant, and does not place a limitation on the damages that
67 the claimant may claim in subsequently maintained civil
68 litigation, including arbitration. Payment of the damages
69 claimed in the demand letter and the required surcharge as set
70 forth in this section within 30 days of receipt of the demand
71 letter:

72 (a) Does not constitute an admission of any wrongdoing or
73 liability by the dealer.

74 (b) Is protected under s. 90.408 from introduction as
75 evidence during any civil litigation, including arbitration.

Amendment No. 1

76 (c) Releases the dealer and its employees, agents,
77 principals, sureties, and insurers from any claim, suit, or
78 other action that could be brought arising out of, or in
79 connection with, the specific transaction, event, or occurrence
80 described in the demand letter; but does not serve as a release
81 as to items of damages that are not included in the demand
82 letter and not recoverable under this chapter.

83 (6) The applicable time limitations for initiating an
84 action under this chapter are tolled for 30 days after the date
85 of delivery of the demand letter to the dealer pursuant to
86 subsection (3), or such other period agreed to in writing and
87 signed by the parties after the demand letter is received by the
88 dealer.

89 (7) This section does not apply to any action brought as a
90 class action that is ultimately certified as a class action or
91 to any action brought by the enforcing authority.

92 (8) If a claimant initiates civil litigation, including
93 arbitration, without first complying with the provisions of this
94 section, the court or arbitrator shall stay the action upon
95 timely motion until the claimant complies with this section.
96 Attorney fees and court or arbitration costs incurred by the
97 claimant before compliance with this section are not recoverable
98 under this chapter.

99 (9) This section applies only to civil litigation,
100 including arbitration, arising out of a transaction for which
101 the dealer has provided the following written notice to the
102 consumer, which must be acknowledged by the consumer, and which
103 must be in a font size no smaller than that of the predominant

Amendment No. 1

104 text on the page in which the notice is disclosed, or if it is
105 disclosed by itself, in a font size of at least 12 point:

106
107 "Section 501.98, Florida Statutes, requires that, at least
108 30 days before bringing any claim against a motor vehicle
109 dealer for an unfair or deceptive trade practice, a
110 consumer must provide the dealer with a written demand
111 letter stating the name, address, and telephone number of
112 the consumer; the name and address of the dealer; a
113 description of the facts that serve as the basis for the
114 claim; the amount of damages claimed; and copies of any
115 documents in the possession of the consumer which relate to
116 the claim. Such notice must be delivered by the United
117 States Postal Service or by a nationally recognized
118 carrier, return receipt requested, to the address where the
119 subject vehicle was purchased or leased, where the subject
120 transaction occurred, or any address at which the dealer
121 regularly conducts business."

122



Amendment No. 1a

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	—	(Y/N)
ADOPTED AS AMENDED	—	(Y/N)
ADOPTED W/O OBJECTION	—	(Y/N)
FAILED TO ADOPT	—	(Y/N)
WITHDRAWN	—	(Y/N)
OTHER	_____	

*unfavorable
2-21-13*

1 Committee/Subcommittee hearing bill: Judiciary Committee
2 Representative Dudley offered the following:

Amendment to Amendment (350481) by Representative Gaetz

Remove lines 46-63 of the amendment and insert:

(b)1. A dealer and its employees, agents, principals, sureties, and insurers may not be required to pay the attorney fees of the claimant in any action brought under this chapter if:

a. The dealer, within 30 business days after receipt of the demand letter, notifies the claimant in writing, and a court or arbitrator agrees, that the amount sought in the demand letter is not supported by the facts of the transaction or event described in the demand letter or if the demand letter includes items not properly recoverable under this chapter; or

b. The claimant fails to materially comply with this section; however, to the extent that there is a challenge to the sufficiency of the demand letter, the demand letter shall be deemed satisfactory if it contains sufficient information to adequately put the dealer on notice of the nature of the claim



Amendment No. 1a

21 and the relief sought such that the dealer could appropriately
22 respond.

23 2. This paragraph does not limit a consumer's right to
24 attorney fees in a meritorious case.

25



Amendment No. 1b

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	—	(Y/N)
ADOPTED AS AMENDED	—	(Y/N)
ADOPTED W/O OBJECTION	—	(Y/N)
FAILED TO ADOPT	—	(Y/N)
WITHDRAWN	—	(Y/N)
OTHER	_____	

*unfavorable
2.21.13*

1 Committee/Subcommittee hearing bill: Judiciary Committee
 2 Representative Schwartz offered the following:

Amendment to Amendment (350481) by Representative Gaetz

Remove lines 52-56 of the amendment and insert:

6 arbitrator agrees, that the amount sought in the demand letter
 7 does not bear a reasonable relationship to the facts of the
 8 transaction or event described in the demand letter and was
 9 demanded in bad faith; or

10



Amendment No. 1c

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	—	(Y/N)
ADOPTED AS AMENDED	—	(Y/N)
ADOPTED W/O OBJECTION	—	(Y/N)
FAILED TO ADOPT	—	(Y/N)
WITHDRAWN	—	(Y/N)
OTHER	_____	

*Favorable
2.21.13*

1 Committee/Subcommittee hearing bill: Judiciary Committee
 2 Representative Gaetz offered the following:

4 **Amendment to Amendment (350481) by Representative Gaetz**

5 Remove line 82 of the amendment and insert:
 6 letter or not recoverable under this chapter.

7

COMMITTEE MEETING REPORT

Judiciary Committee

2/21/2013 12:00:00PM

Location: 404 HOB

HB 351 : Application of Foreign Law in Certain Cases

Favorable With Committee Substitute

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Daphne Campbell			X		
Dwight Dudley	X				
Heather Fitzenhagen	X				
Clay Ford			X		
Matt Gaetz	X				
Bill Hager	X				
Dave Kerner			X		
Charles McBurney	X				
Kionne McGhee		X			
Larry Metz	X				
Jared Moskowitz			X		
Kathleen Passidomo	X				
Ray Pilon			X		
Kenneth Roberson	X				
Elaine Schwartz		X			
Ross Spano	X				
Charlie Stone	X				
Dennis Baxley (Chair)	X				
Total Yeas: 11		Total Nays: 2			

HB 351 Amendments

Amendment 904485

Adopted Without Objection

Appearances:

Abdelaziz, Laila (General Public) - Opponent

Emerge USA
5031 Sunridge Palms Drive
Tampa FL undefined
Phone: 3523611808

Pitts, Brian - Proponent

Justice-2-Jesus
1119 Newton Ave. S.
St. Petersburg FL 33705
Phone: 727-897-9291

Bilbao, Ron (State Employee) - Opponent

American Civil Liberties Union of Florida
4500 Biscayne Blvd, Suite 340
Miami Florida 33137
Phone: 919-923-7288

Committee meeting was reported out: Thursday, February 21, 2013 3:02:04PM

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	_____	(Y/N)
ADOPTED AS AMENDED	_____	(Y/N)
ADOPTED W/O OBJECTION	_____	(Y/N)
FAILED TO ADOPT	_____	(Y/N)
WITHDRAWN	_____	(Y/N)
OTHER		

*favorable
2-21-13*

1 Committee/Subcommittee hearing bill: Judiciary Committee
2 Representative Metz offered the following:

Amendment

5 Remove lines 53-55 and insert:

6 foreign country, state, or nation, or subdivision thereof,
7 outside of the United States or its territories, including, but
8 not limited to, a foreign or international organization claiming
9 status as a country, state, or nation or asserting legal
10 authority to act on behalf of one or more foreign countries,
11 states, or nations, and any other similar international
12 organization or tribunal, and applied by that jurisdiction's

COMMITTEE MEETING REPORT

Judiciary Committee

2/21/2013 12:00:00PM

Location: 404 HOB

CS/HB 4019 : Juvenile Justice

Favorable

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Daphne Campbell			X		
Dwight Dudley	X				
Heather Fitzenhagen	X				
Clay Ford			X		
Matt Gaetz	X				
Bill Hager	X				
Dave Kerner			X		
Charles McBurney	X				
Kionne McGhee	X				
Larry Metz	X				
Jared Moskowitz			X		
Kathleen Passidomo	X				
Ray Pilon			X		
Kenneth Roberson	X				
Elaine Schwartz	X				
Ross Spano	X				
Charlie Stone	X				
Dennis Baxley (Chair)	X				
Total Yeas: 13		Total Nays: 0			

Appearances:

Sanchez, Ana (Lobbyist) - Waive In Support
Department of Juvenile Justice
2737 Centerview Dr
Tallahassee FL 32399
Phone: (850)410-1097

Committee meeting was reported out: Thursday, February 21, 2013 3:02:04PM