

## Session 116 - (2005-2006)

### S 1085 General Bill, By Rankin

#### *Similar (H 4472)*

**Summary:** Motorcycle manufacturer, dealers, distributors and wholesalers

A BILL TO AMEND SECTION 56-16-10, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITIONS OF TERMS CONTAINED IN CERTAIN PROVISIONS THAT REGULATE MOTORCYCLE MANUFACTURERS, DISTRIBUTORS, DEALERS, AND WHOLESALERS, SO AS TO REVISE THE DEFINITIONS OF THE TERMS "MANUFACTURER", "DEALERSHIP FACILITIES", "FRANCHISE", AND "DEALER", AND TO PROVIDE DEFINITIONS FOR THE TERMS "MOTORCYCLE DEALERSHIP" AND "DEPARTMENT"; TO AMEND SECTION 56-16-40, RELATING TO THE PROCEDURE A MANUFACTURER WHO SEEKS TO ENTER INTO A FRANCHISE ESTABLISHING AN ADDITIONAL NEW MOTORCYCLE DEALERSHIP OR RELOCATING AN EXISTING NEW MOTORCYCLE DEALERSHIP IN A RELEVANT MARKET AREA WHERE THIS LINE MAKE IS REPRESENTED MUST FOLLOW, SO AS TO DELETE THE EXISTING PROCEDURE AND ESTABLISH A NEW PROCEDURE; TO ADD SECTION 56-16-45 SO AS TO PROVIDE THAT IT IS UNLAWFUL FOR CERTAIN ENTITIES TO OWN, OPERATE, OR CONTROL A MOTORCYCLE DEALERSHIP OR TO ESTABLISH AN ADDITIONAL DEALER OR MOTORCYCLE DEALERSHIP UNDER CERTAIN CIRCUMSTANCES, TO PROVIDE THAT IT IS UNLAWFUL FOR CERTAIN ENTITIES TO COMPETE UNFAIRLY WITH A MOTORCYCLE DEALER UNDER CERTAIN CIRCUMSTANCES, TO PROVIDE THAT IS UNLAWFUL FOR CERTAIN ENTITIES TO OWN A FACILITY THAT ENGAGES PRIMARILY IN THE REPAIR OF MOTORCYCLES; TO AMEND SECTION 56-16-50, RELATING TO THE COMPENSATION OF A MOTORCYCLE DEALER UPON TERMINATION, NONRENEWAL, OR CANCELLATION OF A FRANCHISE BY A MANUFACTURER OR DISTRIBUTOR, SO AS TO MAKE A TECHNICAL CHANGE, TO PROVIDE THAT THE PROVISIONS CONTAINED IN SECTION 56-16-45 ARE APPLICABLE TO THIS PROVISION, TO PROVIDE THAT THE MOTORCYCLE DEALER MUST BE COMPENSATED FOR THE REASONABLE GOOD WILL FOR THE FRANCHISE, AND TO REVISE THE CONDITIONS UPON WHICH A DEALER MAY BE COMPENSATED; TO ADD SECTION 56-16-85 SO AS TO PROVIDE THAT THE PROVISIONS THAT REGULATE MOTORCYCLE MANUFACTURERS, DISTRIBUTORS, DEALERS, AND WHOLESALERS APPLY TO ALL WRITTEN AND ORAL AGREEMENTS BETWEEN A MANUFACTURER, FACTORY BRANCH, DISTRIBUTOR BRANCH, DISTRIBUTOR, WHOLESALER, OR FRANCHISOR WITH A MOTORCYCLE DEALER; TO ADD SECTION 56-16-86 SO AS TO PROVIDE THAT A DEALERSHIP MAY CONTRACT WITH AN ON-LINE ELECTRONIC SERVICE TO PROVIDE MOTORCYCLES TO CONSUMERS IN THIS STATE; TO AMEND SECTION 56-16-100, RELATING TO CERTAIN PRACTICES ENGAGED IN BY A MANUFACTURER, FACTORY BRANCH, FACTORY REPRESENTATIVE, OR MOTORCYCLE DEALER WHICH ARE UNLAWFUL, SO AS TO PROVIDE THAT THIS PROVISION ALSO APPLIES TO WHOLESALERS AND WHOLESALER REPRESENTATIVES, TO MAKE TECHNICAL CHANGES, AND TO PROVIDE THE STANDARD OF PROOF THAT A MANUFACTURER MUST BEAR IN A PROCEEDING THAT ARISES PURSUANT TO THIS SECTION; TO AMEND SECTION 56-16-200, RELATING TO RELIEF AVAILABLE TO PERSONS INJURED PURSUANT TO THE PROVISIONS CONTAINED IN THIS CHAPTER, SO AS TO PROVIDE FOR ADDITIONAL INJUNCTIVE RELIEF, AND TO PROVIDE THAT PUNITIVE DAMAGES MAY BE AWARDED IF A DEFENDANT HAS ACTED IN BAD FAITH; TO ADD SECTION 56-16-205 SO AS TO PROVIDE FOR THE STATUTE OF LIMITATIONS FOR THE COMMENCEMENT OF AN ACTION THAT ARISES OUT OF A PROVISION RELATING TO THE REGULATION OF MOTORCYCLE MANUFACTURERS, DISTRIBUTORS, DEALERS, AND WHOLESALERS; TO AMEND SECTION 56-16-210, RELATING TO CONTRACTS THAT VIOLATE THE PROVISIONS THAT REGULATE MOTORCYCLE MANUFACTURERS, DISTRIBUTORS, DEALERS, AND WHOLESALERS, SO AS TO PROVIDE THAT THIS STATE'S LAW APPLIES TO ANY FRANCHISE FOR A DEALERSHIP LOCATED IN THIS STATE, AND THAT VENUE IS IN THIS STATE FOR AN ACTION BROUGHT PURSUANT TO THESE PROVISIONS; AND TO REPEAL SECTION 56-16-70, RELATING TO A DEALER'S VOLUNTARY CANCELLATION, NONRENEWAL, OR TERMINATION OF A FRANCHISE AGREEMENT.

01/25/06 Senate Introduced and read first time SJ-6

01/25/06 Senate Referred to Committee on Transportation SJ-6