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FISCAL IMPACT REPORT

SPONSOR: SCONC DATE TYPED: 03/04/03 HB _____

SHORT TITLE: Boat Dealer License SB 79/SCONCS/aSCORC

ANALYST: Gilbert

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY03	FY04			
	\$0.1 See Narrative		Recurring	Other State Funds

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files

Response Received From
Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of the SCORC Amendment

The Senate Corporations and Transportation Committee amendment to the Senate Conservation Committee substitute for Senate Bill 79 adds language to page 11, line 13 to clarify that “a person shall not engage in business as a dealer or manufacturer without obtaining a valid dealer license from the Motor Vehicle Division of the Taxation and Revenue Department unless the person has a valid motor vehicle dealer license.”

Synopsis of Original Bill

The Senate Conservation Committee Substitute for Senate Bill 79 adds new language and makes the amendments in the following areas:

Amends NMSA 1978, § 66-4-1 to require dealers of trailers, towed recreational vehicles and motorcycles over fifty-five (55) cubic centimeters to be licensed by the department. The section is further amended to delete obsolete language requiring vehicle wholesalers who also sell vehicles at retail to be licensed by the department.

Amends NMSA 1978, § 6-12-3 of the Boat Act to include new definitions of “demonstration” and “established place of business”.

Amends NMSA 1978, § 6-12-6 to require an applicant for a State Parks Division (SPD) issued dealer certificate to first obtain a dealer license from the Motor Vehicle Division (MVD). Changes to this section also specify the information that must be contained on dealer certificates, and sets out requirements for displaying dealer numbers on motor-boats.

Adds a new Section 4 to the Boat Act to prohibit display of dealer numbers on motor-boats that are not being operated for test or demonstration purposes.

Adds a new Section 5 to the Boat Act to require boat dealers to be licensed by MVD. To obtain a license, a dealer must apply to MVD and pay an annual fee not to exceed \$50.

Section 6 adds a new section to the Boat Act to provide grounds for denying, suspending or revoking a boat dealer’s license.

Section 7 adds a new section to the Boat Act to require licensed boat dealers to file a \$50,000 bond with SPD unless the dealer has a bond on file with MVD. This section also requires boat dealers to furnish evidence of liability insurance for the place of business for which the license was obtained.

Adds a new Section 8 to the Boat Act to mandate that a person who violates any provision of the Boat Act is guilty of a misdemeanor and shall be punished by a fine of \$300 and/or imprisonment for at least 30 days.

Repeals NMSA 1978, § 6-4-8, which currently exempts dealers of boats, off-highway motor vehicles, trailers, and recreational vehicles designed to be towed from licensing and bonding provisions.

Significant Issues

The practice of licensing and bonding dealers has several positive benefits, including:

- allowing dealers to accept boats or vehicles in trade and resell them as a dealer;
- providing dealers with recognized dealer numbers and making available all forms needed to title and register boats or vehicles through MVD;
- allowing dealers to access demonstration permits and temporary registration permits for transporting boats or vehicles on New Mexico highways; and
- affording protection to consumers if a dealer fails to transfer title.

FISCAL IMPLICATIONS

There would be a small positive fiscal impact to the State Park Recreation Fund from the boat

dealer licensing fees collected. SPD uses these funds for recreational boating safety programs and division operations.

ADMINISTRATIVE IMPLICATIONS

MVD currently has licensing and bonding processes in place and provides title and registration service for boat dealers. Therefore, MVD believes that SB 79/SCONC can be administered with resources currently available to the department.

TECHNICAL ISSUES

Section 66-4-8 currently exempts dealers of boats, off-highway motor vehicles, trailers, and towed recreational vehicles from licensing and bonding requirements. This bill repeals Section 66-4-8, and amends other sections of current statute to clearly require dealers of boats, trailers, and towed recreational vehicles to be licensed. The proposal does not explicitly address whether dealers of off-highway motor vehicles are required to be licensed. However, Section 66-4-1 requires dealers of motor vehicles subject to registration under the Motor Vehicle Code to be licensed.

Registration of off-highway motor vehicles is mandated under Section 66-3-1003 of the Motor Vehicle Code. Therefore, this proposal effectively requires dealers of off-highway vehicles to comply with licensing and bonding provisions.

Attachment

**NASBLA MODEL ACT FOR
VESSEL DEALER/MANUFACTURER LICENSING**

RLG/sb:pr/rijw:yr

**NASBLA MODEL ACT FOR
VESSEL DEALER/MANUFACTURER LICENSING**

Adopted September 13, 2000

SECTION 1. APPLICABILITY:

This act requires any person engaged in the business of buying, selling, testing, dealing in, displaying or demonstrating for sale, as a dealer, manufacturer or broker of new or used motorboats, to obtain a dealers license from the division for each established place of business.

SECTION 2. DEFINITIONS:

The following words, as used in this act, shall have the following meanings shown:

- (a) Person means any natural person or individual, partnership, firm, association, corporation or other entity.
- (b) Vessel means every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water.
- (c) Dealer means any person engaged wholly or in part in the business of selling or offering for sale, buying or taking in trade for the purpose of resale, exchanging, displaying or demonstrating two or more motorboats within any twelve consecutive months, and who receives or expects to receive money, profit, or any other thing of value.
- (d) New Vessel means any vessel which has not been previously registered or titled and the possession of which has been transferred by a certificate of origin from the manufacturer or dealer to the public.
- (e) Used Vessel means any vessel previously registered or titled is used as a demonstration vessel exceeding six months, used as a commercial vessel or used in racing and the possession of which has been transferred from the person who first acquired from the manufacturer or dealer.
- (f) Established Place of Business means a salesroom in a permanent enclosed building or structure, either owned in fee or leased, at which a permanent business of bartering, trading and selling of motorboats will be carried on in good faith and at which place of business shall be kept and maintained the books, records and files necessary to conduct the business.
- (g) Issuing Authority shall mean a state agency designated by the legislative body to administer the dealer-licensing act.
- (h) Manufacturer means any person engaged in the manufacturing, construction or assembly of motorboats.

SECTION 3. GENERAL POWERS OF ISSUING AUTHORITY:

The division may adopt rules and regulations to carry out the provisions of this Chapter. Such rules and regulations may include, but are not limited to the following:

- (a) Prescribe forms.
- (b) Investigate and evaluate the qualifications of applicants for a dealers or manufacturers license.
- (c) Issue, deny, suspend and revoke licenses.
- (d) Investigate and conduct hearings on violations of this chapter.

SECTION 4. CONTENT OF APPLICATION:

The application for a dealer license shall be on forms prescribed by the division and shall be accompanied by the fee established under Section 9 of this Act and shall contain:

- (a) The business name, address and telephone number
- (b) The specific location to be occupied by the licensee in conducting such business

- (c) The signature and title of any officer of the business
- (d) Certification that he/she is a vessel dealer or manufacturer as defined in Section 2 of this Act
- (e) A federal business identification number
- (f) Any additional information that the division reasonable needs to determine the qualifications and eligibility of the applicant to receive a license, and the ability of the applicant to conduct the business for which the application is submitted.

SECTION 5. CONTENT OF LICENSES:

A license issued to a vessel dealer must contain:

- (a) The license number issued
- (b) Expiration date of the license
- (c) Name and business address of the licensee
- (d) Specific location for which the license was issued
- (e) Statement requiring display of licenses
- (f) Issuing authority information

SECTION 6. SUPPLEMENTAL AND TEMPORARY LICENSES:

- (a) A supplemental dealer license shall be issued for each place of business operated by a dealer that is not contiguous to other premises for which a license has been issued or for which the division has established the distance required from a principal place of business.
- (b) A temporary supplemental license shall be issued to display for sale or sell motorboats at a show and is to be issued for a period as determined by the division.

SECTION 7. LOCATION TO BE SPECIFIED CHANGE OF LOCATION:

The license issued to a dealer shall specify the location of each place of business. If the ownership, location or name of a business is changed, the holder shall notify division within 10 days. Upon payment of the appropriate fee, the division will issue an endorsement for that license if it is determined that the change is not subject to other provisions of this Act.

SECTION 8. DISPLAY OF LICENSES:

A dealer license, supplemental license or temporary supplemental license shall be conspicuously displayed on the premise for which issued.

SECTION 9. FEES:

The division may establish fees for issuance of initial, subsequent and replacement licenses to dealers.

SECTION 10. EXPIRATION OF LICENSE:

A license issued under this Act is valid for a period not to exceed one year from the date of issuance.

SECTION 11. USE OF LICENSES; GROUNDS FOR DENYING, SUSPENDING OR REVOKING LICENSES:

It shall be unlawful for any person to engage in business as a vessel dealer without first obtaining a license as provided in this Act. A license may be denied, suspended or revoked for:

- A material misrepresentation in the application for a license or other information filed with the division.
- A lack of fitness under the standards set forth in this Act or any rule or regulation adopted

by the division under this Act.

· A willful violation of any federal or state law relating to the sale, distribution, financing, registration, taxing or insuring of motorboats.

SECTION 12. BOND OF DEALER; INSURANCE REQUIRED: Any person to be licensed under this Act shall file with the division a bond in the amount of \$_____ must be issued by a corporate surety licensed to do business within the state of the division. The bond shall be issued under the condition that the applicant shall not practice fraud or violate any provisions of this Act in conducting business for which he/she is licensed. Any person licensed under this Act shall furnish evidence that the person currently has liability insurance covering the person's place of business.

SECTION 13. PENALTIES:

Any person violating any provisions of this Act shall be guilty of a misdemeanor and shall be punished by a fine of three hundred dollars (\$300) or by imprisonment for not less than thirty days, or both.