



September 8, 2011

Lessie A. House  
Executive Director  
Louisiana Motor Vehicle Commission  
3519 12<sup>th</sup> Street  
Metairie, LA 70002

Dear Ms. House:

The National Marine Manufacturers Association (NMMA), the nation’s leading recreational marine industry association, is pleased to provide these comments to the Louisiana Motor Vehicle Commission (Commission) regarding proposed rules affecting recreational products shows as contained in Louisiana Revised Statutes Title 46, Part V, Chapter 15.

As the nation’s leading recreational marine industry association, NMMA represents nearly 1,300 boat builders, engine manufacturers, and marine accessory manufacturers. NMMA members collectively produce more than 80 percent of all recreational marine products made in the United States. Thirty-two percent of the U.S. population, or 75 million people, participated in recreational boating in 2010. With nearly 16.67 million recreational boats in use nationwide, the recreational marine industry is a major consumer goods and services industry that contributed \$30.4 billion in new retail sales and services to the U.S. economy in 2010 and generates nearly 220,000 jobs nationwide.

The recreational boating industry is keenly interested in providing consumers the greatest access to our products. The onerous burdens on marine manufacturers already in Louisiana law have created an unfavorable business climate, so much so that popular brands have been withdrawn from the state by manufacturers unable to accept the increased risk and regulatory burdens imposed by Louisiana, which are the most protective and onerous in the United States. This business climate has deprived citizens of the breadth of choice considered to be the norm in all 49 other states. This proposal would further limit consumer choice by preventing out-of-state exhibitors from offering their products for sale at Louisiana trade shows. By completely eliminating a process for out-of-state exhibitors to gain approval by the commission to exhibit, this proposal would narrow the market of available products and reduces robust competition, necessary for a free marketplace.

In 2007, the state of Louisiana promulgated standards allowing for out-of-state exhibitors when no in-state dealers reserve space at a trade show. This fair and equitable approach gives

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preference to in-state dealers and protects their territory by ensuring that only brands that would not otherwise be displayed in the state would be permitted in the trade show. The proposed regulation, however, would reverse out-of-state dealer opportunity for show participation. This pro-active proposal would expand government control over the marketplace. Given the tightly-controlled licensing process in current law, the state has ample authority and process to ensure that only brands not represented in the state would be allowed to exhibit in Louisiana.

We challenge these proposals as a violation of the dormant commerce clause as specified in *Gibbons v. Ogden*, 22 U.S. 1 (1824). We feel this proposed regulatory change would impose a barrier to trade by discriminating against out-of-state exhibitors. By entirely deleting the non-resident exhibitors section from the automotive regulations, the Commission is discriminating against out-of-state exhibitors and fails to provide any opportunity for Louisiana residents to attend in-state trade shows that have the broadest range of choice and participation by exhibitors representing trademarked brands that are not otherwise represented in the state.

Given that state law bans dealers from selling vessels during the boat show, preventing out-of-state exhibition of vessels does not impede upon the operation of legal business transactions.

Section 1511 proposes a tiered priority system for trade show exhibitors. The tiered priority system does not provide an opportunity for participation when no in-state dealer exists for a particular product brand. Therefore, if no in-state dealer is licensed by the Commission for a particular brand, the entire brand is prohibiting for being exhibited. We find this restricts trade and consumer choice by preventing consumers an opportunity to view various recreational marine product brands. Additionally, we find section 1511 (3) to ambiguously define the manufacturers participation in dealer selection should a dealer not be available in the 30 mile show radius. Would §1511(3) require a manufacturer to appoint a dealer, and if so are there any geographical limitations? Furthermore, §1511(3) should reiterate the recreational products trade show be limited to dealers “who sell the type of vehicle to be displayed” and therefore prevent any loophole for dealers representing other types of recreational products to be allowed to display at the show unless the show owner allows these products to be represented at the show.

The proposed rules provides no additional protection for dealer territories, as no out-of-state exhibitor can be permitted unless the show operator certifies through a mailing to every dealer in the state that no in-state dealer will represent the brand.

Retaining the current regulatory practice protects in-state dealer priority and allows out-of-state exhibitors be given a tightly-regulated opportunity to showcase their brand if not otherwise represented by available in-state dealers. Retaining the current regulatory practice would maintain the state’s authority to regulate out-of-state exhibitors who seek permits to participate in Louisiana trade shows. We believe this opportunity for out-of-state exhibitors must remain to protect free trade, interstate commerce, and consumer demand.

The proposed rules would impose new regulatory requirements on dealers. Dealers would be required to display licenses and permits at the show, despite the fact that such licenses and permits are already on file with the commission and that such displays provide consumers with no information that would enhance their visit to the show, particularly since dealers are legally prohibited from selling vessels and marine engines to consumers during the show. This burden on business also mandates written submission to the Commission of the manufacturers' contractual agreement, a redundant mandate given that those contracts already are submitted to, and approved by, the commission. This unnecessary regulatory burden provides no protection of the marketplace or of citizens of the state.

Lastly, the proposed rules incorrectly claim to have no estimated effect on competition and employment and cite no studies, analysis or factual basis for this claim. Any prohibition of out-of-state exhibitors has the potential to reduce tourism from bordering states. Reductions in the number of brands and dealers participating in a show will reduce choice, as well as revenue and jobs associated with producing the show. Reduction in consumer choice will proportionally affect consumer attendance, impact the local purchases of food and lodging, and harm the profitability of a licensed entity over which the commission has control. .

We appreciate your consideration of these comments. Should you have any additional questions please do not hesitate to contact Nicole Vasilaros, State Government Relations Manager and Legislative Counsel at [nvasilaros@nmma.org](mailto:nvasilaros@nmma.org) or at 202-737-9763.

Sincerely,

A handwritten signature in blue ink that reads "T. Nicole Vasilaros". The signature is written in a cursive, flowing style.

T. Nicole Vasilaros, Esq.  
Manager, State Government Relations  
Legislative Counsel