

## RÉSUMÉ DIGEST

ACT 435 (HB 514)

2018 Regular Session

Shadoin

Existing law (R.S. 32:781 et seq.) provides definitions and general provisions relative to the La. Used Motor Vehicle Commission (hereinafter "commission").

Prior law (R.S. 32:781(5) and 801) defined "motor vehicle". New law maintains the statutory references of prior law but amends the definition in both citations.

New law adds a certain purpose of the commission. Provides its purpose is to develop and advance the independent used motor vehicle industry, promote and stimulate its businesses, and encourage fair business practices for fair competition. Further provides ways in which the commission intends to strengthen relationships between dealers and consumers.

New law adds to the commission's powers and duties. Provides for the commission's sole and exclusive authority to administer claims made against bonds, including instituting or intervening in legal actions to obtain payments, or to prevent payment of an unauthorized claim. Entitles the commission to an award of reasonable attorney fees and court costs if the commission institutes or intervenes, and prevails, in legal action for claims against bonds.

Existing law prohibits unlicensed persons from carrying on the business of a rent-to-own dealer or daily renting used motor vehicles as authorized by a used motor vehicle dealer.

New law redesignates a portion of existing law to a new citation. Prohibits unlicensed persons from carrying on the business of a motor vehicle crusher as defined in existing law.

Prior law (R.S. 32:791(B)(3)(b)(ii) through (iv)) required a dealership's general manager, office manager, title clerk, or other responsible representative of the dealership to attend a four-hour educational seminar or register to attend such seminar within 60 days after issuance of the license. Required such persons to provide documentation pertaining to education within the application for licensure. Provided other provisions relative to the educational seminar and requirements of the commission.

New law deletes prior law.

Prior law required an applicant for licensure as a used motor vehicle dealer to provide certain information prescribed by the commission with respect to certain persons' attendance at educational seminars.

New law changes prior law by requiring an applicant to include a certificate, pursuant to the provisions of new law, showing the applicant has completed an approved educational seminar.

New law adds that provisions of law administered by the La. Motor Vehicle Commission are not applicable relative to violations pertaining to the La. Used Motor Vehicle Commission.

Prior law authorized the commission to revoke or suspend a license and issue penalties to licensees for violations of law relating to the "proper disposition of certificates of title or permits to dismantle in connection with the purchase or sale of any used motor vehicle".

New law deletes the quoted language of prior law and adds that fines or penalties may be assessed for violations concerning a used motor vehicle transaction between a used motor vehicle dealer and consumer.

New law adds the commission's authority to revoke or suspend a license and issue other certain penalties for the sale of a used motor vehicle either with a waiver of warranties or "as is" if the licensee does not complete and provide to the purchaser a buyers guide if required by the Federal Trade Commission.

New law provides for education seminars and seminar applications. Authorizes the commission to do all of the following:

- (1) Require both initial applicants and licensees seeking license renewal to attend educational seminars.

- (2) Adopt rules for establishing educational seminar curriculum, require the use of certain materials, employ any person, or incur any expense necessary to administer the seminars.
- (3) Require seminar attendees' completion of a test comprised of 10 questions approved by the commission and attainment of a minimum score of 75% to receive credit for satisfactory completion of the seminar.
- (4) Provide for an initial license application seminar no longer than six hours in length and a renewal application seminar no longer than four hours in length.
- (5) Approve and create a uniform certificate to be issued upon satisfactory completion of an educational seminar.

New law requires each initial license application to be accompanied by a certificate issued by the commission documenting that a minimum of one owner, partner, officer, or local dealership manager of the dealer applicant has completed an educational seminar. Requires each initial license application seminar to include materials from the office of motor vehicles, the Dept. of Revenue, and any other information the commission deems necessary to educate attendees and their employees regarding compliance with the law.

New law requires each licensee seeking license renewal to certify that the owner, partner, officer, or local dealership manager has completed an educational seminar prior to filing the renewal application with the commission. Requires any renewal application and seminar certification to be completed during the license period.

New law authorizes the commission to approve any educational institution, private vocational school, correspondence school, or trade association that meets the commission's requirements to conduct educational seminars. Provides any such school to be reapproved by the commission every two years. Further requires any such school administering an educational seminar to issue the uniform certificate of completion approved by the commission upon an attendee's satisfactory completion of the seminar.

New law provides that an attendee's failure to satisfactorily complete an educational seminar as required is a violation of existing law and new law.

The educational requirements of new law are inapplicable to a licensee who does not sell or rent used motor vehicles to consumers.

Prior law (R.S. 32:783(F)(3)) authorized the commission to require all dealer sales to have a condition of sale, such as a warranty disclaimer, implied or written warranty, or a service contract. Provided for used motor vehicle "as-is" sales and a waiver of all warranties. Required certain notice to be provided for claims against such sales.

New law repeals prior law.

Prior law (R.S. 32:784(B)) provided that a motor vehicle dealer not licensed in accordance with existing law (R.S. 32:1251 et seq.) was subject to regulation by the commission, if such motor vehicle dealer daily rented motor vehicles that were not current year or immediate prior year models.

New law repeals prior law.

Effective upon signature of governor (May 23, 2018).

(Amends R.S. 32:781(5), 782, 784(A)(intro. para.) and (5), 791(B)(3)(b), 792(B)(16), and 801; Adds R.S. 32:783(F)(10), 784(A)(7) and (8), 792(B)(19), and 795; Repeals R.S. 32:783(F)(3) and 784(B))