

Prior law provided that for purposes of certain laws pertaining to used motor vehicle dealers, "motor vehicle" means any motor-driven car, van, or truck required to be registered pursuant to the Vehicle Registration License Tax Law, which is used or is designed to be used, for the transporting of passengers or goods for public, private, commercial, or for-hire purposes and, including motor homes, motorcycles, all-terrain vehicles, recreational vehicles, travel trailers, boat trailers, ambulances, buses, fire trucks, conversion vehicles, wreckers, semitrailers, hearses, and marine products, as any of the terms are defined in certain prior laws pertaining to motor vehicles.

New law revises prior law and provides that for purposes of certain laws pertaining to used motor vehicle dealers, that "motor vehicle" also means any vehicle manufactured for off-road use and issued a manufacturer's statement or certificate of origin, as required by the Louisiana Motor Vehicle Commission, that cannot be issued a registration certificate and license to operate on the public roads of this state because, at the time of manufacture, the vehicle does not meet certain safety requirements, which is used or is designed to be used, for the transporting of passengers or goods for public, private, commercial, or for-hire purposes.

Prior law provided that a "used motor vehicle dealer" means any person, partnership, corporation, limited liability company, or other entity who, for a commission or with intent to make a profit or gain of money or other thing of value, buys, sells, brokers, exchanges, rents with option to purchase, auctions, offers, or attempts to negotiate a sale or exchange of an interest in used motor vehicles and who is engaged wholly or in part in the business of buying and selling used motor vehicles, whether such motor vehicles are owned by such person and whether the motor vehicles are sold from a dealership location or via any form of advertising, including but not limited to the Internet.

New law revises prior law and provides that auction as used in prior law shall be retail or public.

Prior law provided that the used motor vehicle commission could revoke or suspend a license, issue a fine or penalty, or enjoin a used motor vehicle dealer, dealer in used parts or used accessories of motor vehicles, used motor vehicle auctioneer, or salesperson for a change of condition after the license had been granted which resulted in failure to maintain the qualifications for licensure, including but not limited to the use of false, misleading, or unsubstantiated advertising in connection with his business.

New law repeals the provision of law relating to false advertising as change in condition following licensure for which a license can be revoked under prior law and provides that the used motor vehicle commission may revoke or suspend a license, issue a fine or penalty, or enjoin a used motor vehicle dealer, dealer in used parts or used accessories of motor vehicles, used motor vehicle auctioneer, or salesperson the use of false, misleading, or unsubstantiated advertising in connection with his business.

New law adds a nonexclusive list of what shall be considered false, misleading, or unsubstantiated advertising in connection with his business.

Prior law provided that every used motor vehicle dealer who accepted a deposit or a down payment from a consumer was to provide the consumer with a purchase agreement statement containing the following:

- (1) A complete description of the motor vehicle subject to the purchase agreement, including the make, model, year, and vehicle identification number.
- (2) The purchase price of the vehicle.
- (3) The amount of the deposit or down payment.
- (4) A statement identifying whether the funds received by the dealer are for deposit or down payment.

- (5) Any conditions necessary to complete the sale.

New law repeals prior law.

Prior law provided that every used motor vehicle dealer who accepted a deposit or down payment for a purchase agreement conditioned upon a consumer's ability to obtain financing of the remainder of a purchase price was to return the deposit or down payment upon a determination that the consumer did not qualify for financing. If no determination was made regarding financing within 20 days of the receipt of the deposit or down payment, the deposit or down payment would be returned to the consumer at the end of the 20 day period.

New law repeals prior law.

New law provides that in every transaction between a used motor vehicle dealer and a customer in which the purchaser provides a deposit on a used motor vehicle, the used motor vehicle dealer is required to provide a statement that the deposit given is on an agreement to purchase, and not an actual sale. The agreement shall clearly state that no transaction has actually occurred, and no sales documents have been completed. The deposit is merely intended as a hold on a vehicle.

New law provides that in every transaction between a used motor vehicle dealer and a customer in which the purchaser provides a down payment for the purchase of a used motor vehicle, the used motor vehicle dealer is required to provide, either on the bill of sale, or by separate agreement, a statement that the sale is conditioned upon certain identifiable events, such as financing or obtaining state-mandated compulsory automobile insurance.

New law provides that in every transaction between a used motor vehicle dealer and a customer in which the customer provides either a down payment or a deposit for the purchase of a used motor vehicle, the used motor vehicle dealer is required to complete a disclosure statement containing the terms and conditions of the transaction, including but not limited to the following:

- (1) The amount of the deposit or down payment.
- (2) Whether the money given is either a deposit or a down payment.
- (3) Terms and conditions for return or forfeiture of the customer's deposit or down payment.
- (4) A time limit in which to complete the transaction not to exceed twenty days.
- (5) A complete description of the motor vehicle to be sold including the make, model, year, and any identification and serial numbers.
- (6) The price of the vehicle and a description of the vehicle including the make, model, year, identification, and serial number and its condition.
- (7) The amount of the trade-in allowance and a description of the trade-in vehicle including the make, model, year, identification, and serial number and its condition.

New law provides that if the dealer allows the customer to take delivery on a vehicle which is the subject of either a deposit or a down payment, a pre-delivery sale disclosure statement from the dealer and the customer must include the following:

- (1) A condition report which clearly identifies any noticeable damage to the vehicle before it is released to the customer.
- (2) A statement that if the dealer withdraws from the agreement to purchase, the customer will be responsible only for damages beyond normal wear and tear occurring during the customer's use of the vehicle which may be deducted from the deposit or down payment.
- (3) A statement that if the customer withdraws from the agreement to purchase, the customer shall be responsible not only for damages occurring during the customer's

use of the vehicle but also for usage of the vehicle at a day rate not to exceed \$25 dollars per day and thirty-five cents per mile, which may be deducted from the deposit or down payment.

- (4) A statement that if the customer either withdraws from the agreement to purchase or fails to return the vehicle at the expiration of the term of agreement, the dealer may seek repossession of the vehicle by any lawful means.
- (5) A statement that if the dealer withdraws from the agreement to purchase that the dealer must give written notice, by certified or registered mail, to the customer at least five days prior to taking repossession of the vehicle which may be done by any lawful means, and only upon return of the deposit in accordance with new law.

New law provides that it shall be a violation of Chapter 4-C (Louisiana Used Motor Vehicle Commission) of Title 32 of the Louisiana Revised Statutes of 1950 for any used motor vehicle dealer to fail to follow new law.

Effective Aug. 1, 2014.

(Amends R.S. 32:781(5) and (13)(a)(i); Adds R.S. 32:792(B)(17) and 796; Repeals R.S. 32:792(B)(1)(d) and 795)