

ACT No. 288

2016 Regular Session

HOUSE BILL NO. 271

BY REPRESENTATIVE PRICE

1 AN ACT

2 To amend and reenact R.S. 32:783(F)(8), 791(B)(3)(b)(i) and (4)(b) and (G), 792(B)(8)
3 through (12), (15), and (17)(a), 796(D)(3) and to enact R.S. 32:705(D), 792(17)(k)
4 and (18); relative to the regulation of used motor vehicles; to amend the powers and
5 duties of the Louisiana Used Motor Vehicle Commission; to amend used motor
6 vehicle dealer license application procedures; to increase bond requirements for used
7 motor vehicle dealers; to provide for unauthorized acts; to provide relative to
8 certificates of title; to regulate purchase agreements; and to provide for related
9 matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 32:783(F)(8), 791(B)(3)(b)(i) and (4)(b) and (G), 792(B)(8) through
12 (12), (15), and (17)(a), 796(D)(3) are hereby amended and reenacted and R.S. 32:705(D),
13 792(17)(k) and (18) are hereby enacted to read as follows:

14 §705. Delivery of certificate to purchaser of vehicle

15 * * *

16 D.(1) For purposes of this Section, an "endorsement" shall also mean a
17 written statement signed by an authorized person acting on behalf of the Louisiana
18 Used Motor Vehicle Commission that the certificate of title was obtained by the
19 commission from a used motor vehicle dealer, or a floor plan financier or other
20 similar holder of a security interest relative to a used motor vehicle, pursuant to the
21 commission's authority in R.S. 32:783(F)(8). Such written statement required by this
22 Paragraph shall state the reason the commission was unable to obtain the
23 endorsement defined in Subsection B of this Section. In lieu of the written

1 statement, the office of motor vehicles and the commission may establish a system
2 for the electronic submission of the statement directly to the office of motor vehicles.

3 (2) Nothing in this Paragraph shall exempt the rightful owner or bona fide
4 retail purchaser from paying any sales or use taxes that may be due pursuant to R.S.
5 47:303(B).

6 (3) In the event the previously issued title indicates that a lien was recorded
7 with the office of motor vehicles, the rightful owner or bona fide retail purchaser
8 shall submit proof that demand to release the lien was made on the lienholder of
9 record by certified mail at the address indicated on that vehicle record, and that thirty
10 days after receipt, the office of motor vehicles is authorized to cancel the lien unless
11 the lienholder sends an objection in writing to both the office of motor vehicles and
12 the owner or purchaser making the demand.

13 * * *

14 §783. Used Motor Vehicle Commission; appointment and qualification; terms of
15 office; powers and duties

16 * * *

17 F. The commission's powers and duties shall include but are not limited to
18 the following:

19 * * *

20 ~~(8) Serving in the capacity of a receivership to take~~ (a) Taking possession of
21 certificates of title and further distributing those titles to the rightful owners pursuant
22 to R.S. 32:705 from;

23 (i) a A used motor vehicle dealer who has failed or refused to provide a
24 certificate of title to his customer ~~and to further distribute those titles~~ or to the
25 rightful owners pursuant to R.S. 32:705.

26 (ii) A floor plan financier or other similar holder of a security interest
27 relative to a used motor vehicle who has failed or refused to provide a certificate of
28 title to a bona fide retail purchaser in actual good faith in accordance with R.S.
29 32:710(D).

1 (b)(i) The executive director of the commission is empowered to take any
 2 and all actions necessary to obtain and deliver a certificate of title to a retail
 3 purchaser in actual good faith including instituting or participating in any legal
 4 action to obtain a certificate of title and endorsing a certificate of title on behalf of
 5 any used motor vehicle dealer who either refuses or is unavailable to sign or endorse
 6 the certificate of title.

7 (ii) If the commission institutes or participates in legal action to obtain a
 8 certificate of title for delivery to a retail purchaser in actual good faith, the
 9 commission is entitled to an award of reasonable attorney fees and court costs to be
 10 paid by the individual or entity responsible for delivery of the certificate of title.

11 * * *

12 §791. Application for license; fee; educational seminar; bond requirements; liability
 13 insurance; salesperson's license; location of business

14 * * *

15 B.

16 * * *

17 (3)

18 * * *

19 **(b)(i) ~~On and after January 1, 2002, every~~ Every** application for the issuance
 20 of a used motor vehicle dealer's license ~~that is submitted by an applicant who has not~~
 21 ~~been licensed prior to January 1, 2003;~~ shall be accompanied by, or supported by,
 22 such evidence as the commission shall prescribe, documenting that the dealership's
 23 general manager, office manager, title clerk, or other responsible representative of
 24 the dealership has attended a four-hour educational seminar or has registered to
 25 attend such seminar within sixty days after issuance of the license. The failure to
 26 attend the seminar shall be considered a violation of this Part. The educational
 27 seminar shall include but is not limited to the dealer requirements of this Part and the
 28 rules promulgated to implement, enforce, and administer this Part. Additionally, the
 29 seminar materials shall include a presentation of the requirements of the Louisiana
 30 Department of Public Safety and Corrections, office of motor vehicles, the Louisiana

1 Department of Revenue, and such other information that will promote good business
2 practices. Such educational seminar requirement shall not include written or oral
3 exams.

4 * * *

5 (4)

6 * * *

7 (b) Any dealer who submits a renewal application after the expiration date
8 of an existing license shall be subject to a late penalty of one hundred dollars in
9 addition to any penalty, fine, or cost assessed for operating without a license which
10 shall be paid to the commission.

11 * * *

12 G.(1) Every applicant for licensure or renewal of a license as a used motor
13 vehicle dealer shall show proof of responsibility by depositing with the commission
14 a continuing bond in the amount of fifty thousand dollars. ~~required herein:~~

15 ~~(a) Twenty thousand dollars if the applicant sold less than one hundred and~~
16 ~~twenty vehicles during the twelve month period preceding the licensure period:~~

17 ~~(b) Thirty-five thousand dollars if the applicant sold one hundred and twenty~~
18 ~~or more vehicles during the twelve month period preceding the licensure period:~~

19 ~~(c) All bonds shall be with a commercial surety authorized to do business in~~
20 ~~the state and, which bond shall be approved by the commission, payable to the state~~
21 ~~of Louisiana through the commission, and shall be conditioned upon faithful~~
22 ~~observance of all laws regulated by the commission, including but not limited to laws~~
23 ~~relating to penalties and hearing costs and to the proper disposition of licenses, tags,~~
24 ~~or titles, and shall also indemnify any person who suffers any loss by reason of a~~
25 ~~failure to observe the provisions of the law relating to sales tax, licenses, tags, or~~
26 ~~titles and shall also indemnify any person who suffers any loss, damages, and~~
27 ~~expenses by reason of a failure to deliver title and for the proper disposition of all~~
28 ~~taxes, licenses, and registration fees.~~

29 (2) ~~Such~~ The bond shall be for the license period and a new bond or a proper
30 continuation certificate shall be delivered to the commission at the beginning of each

1 license period; however, the aggregate liability of the surety in any ~~one~~ calendar year
2 shall in no event exceed fifty thousand dollars ~~the sum of such bond~~.

3 (3) ~~Such~~ The bond shall be made payable to the state of Louisiana through
4 the commission for the following purposes: ~~the use, benefit, and indemnity of any~~
5 ~~persons who shall suffer any loss as a result of any violation of the conditions herein~~
6 ~~above contained and for the proper disposition of all taxes and registration fees.~~

7 (a) The proper disposition of taxes, license fees, tags, or certificates of title.

8 (b) Indemnification to any purchaser of a used motor vehicle who suffers any
9 loss, damage, or expense due to the failure of the dealer to comply with any law
10 relating to the registration of a used motor vehicle, the payment of sales tax, and
11 obtaining a license tag or certificate of registration, including but not limited to the
12 failure of the licensee to deliver a certificate of title or remit any tax, license, or
13 registration fee.

14 (c) Restitution imposed by the commission in accordance with R.S.
15 32:785(B)(6).

16 (d) Unpaid penalties, fines, and hearing costs imposed by the commission
17 not to exceed twenty-five thousand dollars.

18 (e) Attorney fees or court costs assessed pursuant to R.S. 32:783.

19 * * *

20 §792. Denial, revocation, or suspension of license; grounds; unauthorized acts

21 * * *

22 B. The commission may revoke or suspend a license, issue a fine or penalty,
23 or enjoin a used motor vehicle dealer, dealer in used parts or used accessories of
24 motor vehicles, used motor vehicle auctioneer, or salesperson for any of the
25 following conduct:

26 * * *

27 (8) ~~Engaging in a practice of failing~~ Failing to deliver ~~certificates~~ any
28 certificate of title to a consumer within the time limitations prescribed in R.S.
29 32:705.

1 (9) ~~Engaging in a practice of failing~~ Failing to submit any monthly sales
2 ~~reports~~ report to Motor Vehicle Audit by the twentieth day of the following month.

3 (10) ~~Engaging in a practice of failing~~ Failing to remit sales tax where the tax
4 has been collected by the dealer.

5 (11) ~~Engaging in a practice of leaving~~ Leaving the certificate of title open
6 or unassigned to the dealer.

7 (12) ~~Engaging in a practice of issuing~~ Issuing temporary license plates or
8 temporary dealer's plates in violation of the law.

9 * * *

10 (15) Requiring ~~consumers~~ a consumer to sign and execute a voluntary
11 surrender or other similar document at the time of the sale of a used motor vehicle.

12 * * *

13 (17) Use of false, misleading, or unsubstantiated advertising in connection
14 with his business. For the purpose of this Paragraph, false, misleading, or
15 unsubstantiated advertising in connection with the sale of a used motor vehicle shall
16 include but not be limited to the following:

17 (a) Making any unsubstantiated ~~claims~~ claim regarding the dealership, such
18 as being the "largest" or "biggest" dealer, or being the "number one dealer" in an
19 area.

20 * * *

21 (k) Advertising a down payment without including all restrictions or
22 limitations in the same size lettering.

23 (18) Failing to comply with R.S. 32:705.

24 * * *

25 §796. Deposit and down payment disclosure and delivery of vehicle pending the
26 sale

27 * * *

1 D. If the dealer allows the customer to take delivery on a vehicle which is
2 the subject of either a deposit or a down payment, a pre-delivery sale disclosure
3 statement from the dealer and the customer shall include the following:

4 * * *

5 (3) A statement that if the customer withdraws from the agreement to
6 purchase, the customer shall be responsible not only for damages occurring during
7 the customer's use of the vehicle but also for usage of the vehicle at a day rate not to
8 exceed twenty-five dollars per day and thirty-five cents per mile, which may be
9 deducted from the deposit or down payment. A customer shall be considered as
10 having withdrawn from the agreement if the customer intentionally provided false
11 or fraudulent information to the dealer in connection with the transaction.

12 * * *

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____