

2018 Regular Session

HOUSE BILL NO. 514

BY REPRESENTATIVE SHADOIN

MOTOR VEHICLES: Provides relative to the La. Used Motor Vehicle Commission

1 AN ACT

2 To amend and reenact R.S. 32:781(5), 782, 784(A)(introductory paragraph) and (5),
3 791(B)(3)(b), 792(B)(16), 793(E) and 801, to enact R.S. 32:783(F)(10), 784(A)(7)
4 through (9), 792(B)(19) and (20) and 795 and to repeal R.S. 32:783(F)(3) and 784(B)
5 relative to the regulation of used motor vehicles; to amend definitions; to provide for
6 the purpose of the Used Motor Vehicle Commission; to provide for the powers and
7 duties of the commission; to provide for certain prohibitions and unauthorized acts;
8 to provide relative to rental with option-to-purchase programs; to amend relative to
9 applications for licensure; to provide for educational requirements and procedure;
10 to repeal relative to dealer sales and certain educational seminars; to provide for
11 effectiveness; and to provide for related matters.

12 Be it enacted by the Legislature of Louisiana:

13 Section 1. R.S. 32:781(5), 782, 784(A)(introductory paragraph) and (5),
14 791(B)(3)(b), 792(B)(16), 793(E) and 801 are hereby amended and reenacted and R.S.
15 32:783(F)(10), 784(A)(7) through (9), 792(B)(19) and (20) and 795 are hereby enacted to
16 read as follows:

17 §781. Definitions

18 As used in this Chapter:

19 * * *

1 (5) "Motor vehicle" means any motor-driven ~~car, van, or truck~~ required to
2 ~~be registered pursuant to the Vehicle Registration License Tax Law, R.S. 47:451 et~~
3 ~~seq., or any vehicle manufactured for off-road use and issued a manufacturer's~~
4 ~~statement or certificate of origin, as required by the Louisiana Motor Vehicle~~
5 ~~Commission, that cannot be issued a registration certificate and license to operate on~~
6 ~~the public roads of this state because, at the time of manufacture, the vehicle does not~~
7 ~~meet the safety requirements prescribed by R.S. 32:1301 through 1310 which is used~~
8 ~~or is designed to be used, for the transporting of passengers or goods for public,~~
9 ~~private, commercial, or for-hire purposes including but not limited to motor homes,~~
10 ~~motorcycles, all-terrain vehicles, recreational vehicles, travel trailers, boat trailers,~~
11 ~~ambulances, buses, fire trucks, conversion vehicles, wreckers, semitrailers, hearses,~~
12 ~~and marine products, as any of the terms are defined in R.S. 32:1252~~ vehicle required
13 to be registered that was used, is used, or is designed to be used for the transporting
14 of passengers or goods for public, private, commercial, or for-hire purposes.

* * *

16 §782. Jurisdiction and authority of commission; purpose

17 A. The Louisiana Used Motor Vehicle Commission is created for the
18 purpose of developing and advancing the independent used motor vehicle industry,
19 promoting and stimulating its businesses, and encouraging fair business practices to
20 strive for fair competition. Further, the commission understands its role in
21 representing the consumers of used motor vehicles and seeks to protect their interests
22 by strengthening the relationship between dealers and consumers, assisting in dispute
23 resolution, maintaining education programs to promote industry standards, and
24 assisting the office of motor vehicles in enforcement of its laws related to used motor
25 vehicle transactions.

26 B. The provisions of this Chapter shall not apply to any person, partnership,
27 corporation, limited liability company, or other entity that is licensed or regulated by
28 the Louisiana Motor Vehicle Commission. If any provision of this Chapter conflicts

1 with any provision of Chapter 6 of this Title, the provisions of Chapter 6 of this Title
2 shall prevail.

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

5 * * *

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

8 * * *

9 (10) Having the sole and exclusive authority to administer all claims made
10 against the bond required by R.S. 32:791(G), including the denial or rejection of any
11 claim.

12 (a) The executive director of the commission is authorized to take any action
13 necessary to administer and obtain any payment related to the bond, including
14 instituting a legal action to obtain payment related to the bond or to prevent an
15 unauthorized payment related to the bond.

16 (b) If the commission institutes or participates in any legal action as
17 authorized by Subparagraph (a) of this Paragraph, then the commission is entitled to
18 an award of reasonable attorney fees and court costs to be paid by the entity
19 responsible for the nonpayment or unauthorized payment related to the bond.

20 * * *

21 §784. Dealers, dismantlers, and auctions to be licensed; exception

22 A. No person, firm, or corporation, unless licensed by the commission under
23 the provisions of this Chapter, shall carry on or conduct the business of any of the
24 following:

25 * * *

26 (5) A rent-to-own dealer as defined in R.S. 32:793(A)(6) ~~or renting on a~~
27 ~~daily basis used motor vehicles as authorized by R.S. 32:781(13)(a)(ii).~~

28 * * *

1 ~~vehicle dealers, their salespersons, and service personnel for the benefit of the public.~~
 2 ~~The commission may approve any nonprofit corporation organized for the purpose~~
 3 ~~of representing licensees of this commission to administer the educational seminar~~
 4 ~~program and may approve any for-profit corporation, association, or other entity that~~
 5 ~~is associated with the used car industry to conduct the seminar and certify~~
 6 ~~completion of the required attendance. However, the commission shall investigate~~
 7 ~~the qualifications of and shall have the authority to approve or deny approval of all~~
 8 ~~entities that desire to conduct an educational seminar for motor vehicle dealer~~
 9 ~~applicants and motor vehicle dealers.~~

10 ~~(iii) The commission shall approve a uniform document used to certify~~
 11 ~~completion of the seminar and all materials used in conducting the seminar. The~~
 12 ~~commission shall approve all fees charged for materials and attendance to the~~
 13 ~~seminar.~~

14 ~~(iv) The commission shall promulgate rules to implement this educational~~
 15 ~~seminar program.~~

16 * * *

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

18 * * *

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

23 * * *

24 (16) Violating any provision of this Chapter, any rule or regulation adopted
 25 by the commission, or any provision of law relating to ~~the proper disposition of~~
 26 ~~certificates of title or permits to dismantle in connection with the purchase or sale of~~
 27 ~~any used motor vehicle~~ a used motor vehicle transaction between a used motor
 28 vehicle dealer and a consumer.

29 * * *

1 (2) Promulgate and adopt any rule for establishing educational seminar
2 curriculum, requiring certain materials to be used, employing any person, and
3 incurring any expense necessary to administer the seminars.

4 (3) Require seminar attendees to complete a test comprised of ten questions
5 approved by the commission and to obtain a minimum score of seventy percent in
6 order to receive credit for satisfactory completion of the seminar.

7 (4) Require that an initial license application seminar shall not exceed six
8 hours in length and require that a renewal application seminar shall not exceed four
9 hours in length.

10 (5) Approve and create a uniform certificate to be issued upon satisfactory
11 completion of an educational seminar.

12 B. Each initial license application shall be accompanied by a certificate
13 issued by the commission, as described in Subsection D of this Section, documenting
14 that the owner, partner, or officer of the dealer applicant has completed an
15 educational seminar. For each initial license application seminar, the seminar shall
16 include materials from the Department of Public Safety and Corrections, office of
17 motor vehicles, the Department of Revenue, and any other information the
18 commission deems necessary to educate attendees and their employees regarding
19 compliance with the law.

20 C. Each licensee seeking to renew his license shall certify that the owner,
21 partner, or officer of the dealer has completed an educational seminar prior to filing
22 the renewal application with the commission. Any renewal application and seminar
23 certification shall be completed during the license period.

24 D.(1) The commission may approve any educational institution, private
25 vocational school, correspondence school, or trade association that meets its
26 requirements to conduct educational seminars as required by this Section.

27 (2) Any educational institution, private vocational school, correspondence
28 school, or trade association approved pursuant to Paragraph (1) of this Subsection
29 shall be reapproved by the commission every two years.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 514 Original

2018 Regular Session

Shadoin

Abstract: Provides with respect to various provisions relative to the La. Used Motor Vehicle Commission.

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

Proposed law retains present law.

Present law defines "motor vehicle" in both R.S. 32:781(5) and 801.

Proposed law amends the definition of "motor vehicle" in both places of present law.

Present law generally provides that present law does not apply to any person, partnership, corporation, limited liability company, or other entity licensed or regulated by the La. Motor Vehicle Commission.

Proposed law retains present law.

Proposed 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.

Proposed law adds with respect to the commission's powers and duties. Provides for the commission's sole and exclusive authority to administer claims made against certain required bonds and legal actions to obtain payments. Provides the commission's entitlement to an award of reasonable attorney fees and court costs if the commission institutes or participates in certain legal action.

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

Proposed law modifies present law relative to the prohibition against unlicensed persons operating as a used motor vehicle dealer and provides the same prohibition in a new citation of proposed law (R.S. 32:783(A)(7)).

Proposed law prohibits unlicensed persons from carrying on the business of a motor vehicle crusher as defined in present law. Further prohibits unlicensed persons from carrying on the business of a used motor vehicle salesperson for any used motor vehicle dealer.

Present law requires an applicant applying 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. Proposed law modifies present law and adds language to require an applicant for licensure to include a certificate, as required by the commission pursuant to the provisions of proposed law (R.S. 32:795), showing the applicant has completed an approved educational seminar.

Present law (R.S. 32:791(B)(3)(b)(ii) through (iv)) requires documentation within its application for licensure that a dealership general manager, office manager, title clerk, or other responsible representative of the dealership attended a 4-hour educational seminar or registered to attend such seminar within 60 days after issuance of the license. Provides other provisions relative to the educational seminar and requirements of the commission.

Present law authorizes the commission to revoke or suspend a license and issue certain fines or penalties to licensees for violations of present law or any rule or regulation adopted by the commission, or any provision 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".

Proposed law deletes the quoted present law language and adds penalties may be assessed for violations of law concerning a used motor vehicle transaction between a used motor vehicle dealer and consumer.

Proposed law adds the commission's authority to revoke or suspend a license and issue other certain penalties, provided in present law, for selling or offering to sell any used motor vehicle when the dealer or salesperson fails to disclose in writing from the purchaser that the vehicle has certain defective or missing airbag components.

Proposed law adds the commission's authority to revoke or suspend a license and issue other certain penalties, provided in present law, for selling a used motor vehicle "as is" or selling a used motor vehicle with a waiver of warranties without completing a buyers guide as required by the Federal Trade Commission.

Present law prohibits a used motor vehicle dealer from renting a used motor vehicle with an option to purchase when the vehicle has a recorded lien on file. Provides other provisions with respect to clearing the lien to provide for an authorized sale.

Proposed law deletes present law.

Proposed law provides it is unlawful and constitutes a violation of present and proposed law for a used motor vehicle dealer to rent with an option to purchase any used motor vehicle in the following circumstances:

- (1) When the used motor vehicle is encumbered by a lien.
- (2) When the used motor vehicle is not properly titled in the name of the used motor vehicle dealer within 45 days from the dealer's purchase of the vehicle as described in present law (R.S. 32:705).

Educational Seminars

Proposed 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 any rule for establishing educational seminar curriculum, requiring certain materials to be used, employing any person, or incurring 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 6 hours in length and a renewal application seminar no longer than 4 hours in length.

(5) Approve and create a uniform certificate to be issued upon satisfactory completion of an educational seminar.

Proposed law requires each initial license application to be accompanied by a certificate issued by the commission documenting that the owner, partner, or officer of the dealer applicant has completed an educational seminar. Requires each initial license application seminar to include materials from the Dept. of Public Safety and Corrections, 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.

Proposed law requires each licensee seeking to renew his license to certify that the owner, partner, or officer of the dealer 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.

Proposed 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 2 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.

Proposed law provides that an attendee's failure to satisfactorily complete an educational seminar as required is a violation of present and proposed law.

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

Proposed law repeals present law.

Present law (R.S. 32:784(B)) provides that a motor vehicle dealer not licensed in accordance with present law (R.S. 32:1251 et seq.) is subject to regulation of the commission., if such motor vehicle dealer daily rents motor vehicles that are not current year or immediate prior year models.

Proposed law repeals present law.

Proposed law repeals present law.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 32:781(5), 782, 784(A)(intro. para.) and (5), 791(B)(3)(b), 792(B)(16), 793(E) and 801; Adds R.S. 32:783(F)(10), 784(A)(7)-(9), 792(B)(19) and (20) and 795; Repeals R.S. 32:783(F)(3) and 784(B))