

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), and 801, to enact R.S. 32:783(F)(10), 784(A)(7) and (8),
4 792(B)(19), and 795 and to repeal R.S. 32:783(F)(3) and 784(B), relative to the
5 regulation of used motor vehicles; to amend definitions; to provide for the purpose
6 of the Used Motor Vehicle Commission; to provide for the powers and duties of the
7 commission; to provide for certain prohibitions and unauthorized acts; to amend
8 relative to applications for licensure; to provide for educational requirements and
9 procedure; to provide for exceptions; to repeal relative to dealer sales and certain
10 educational seminars; to provide for effectiveness; and to provide for related matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. R.S. 32:781(5), 782, 784(A)(introductory paragraph) and (5),
13 791(B)(3)(b), 792(B)(16), and 801 are hereby amended and reenacted and R.S.
14 32:783(F)(10), 784(A)(7) and (8), 792(B)(19), and 795 are hereby enacted to read as
15 follows:

16 §781. Definitions

17 As used in this Chapter:

18 * * *

19 (5) "Motor vehicle" means any motor-driven ~~car, van, or truck~~ required to
20 ~~be registered pursuant to the Vehicle Registration License Tax Law, R.S. 47:451 et~~

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

* * *

14 §782. Purpose; Jurisdiction ~~jurisdiction~~ and authority of the commission

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

24 B. The provisions of this Chapter shall not apply to any person, partnership,
25 corporation, limited liability company, or other entity that is licensed or regulated by
26 the Louisiana Motor Vehicle Commission. If any provision of this Chapter conflicts
27 with any provision of Chapter 6 of this Title, the provisions of Chapter 6 of this Title
28 shall prevail.

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

3 * * *

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

6 * * *

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

10 (a) The executive director of the commission is authorized to take any action
11 necessary to administer claims against any bond, including instituting or intervening
12 in a legal action to obtain payment of a claim or to prevent payment of an
13 unauthorized claim.

14 (b) If the commission institutes or intervenes in any legal action as
15 authorized by Subparagraph (a) of this Paragraph, the court shall award the
16 commission reasonable attorney fees and court costs to be paid by the licensee,
17 surety, or both.

18 * * *

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

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

23 * * *

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

26 * * *

27 (7) A used motor vehicle dealer who provides daily rentals of used motor
28 vehicles as defined in R.S. 32:781.

1 (8) A motor vehicle crusher as defined in R.S. 32:781.

2 * * *

3 §791. Application for license; ~~fee~~; renewal; ~~fees~~; educational seminar; bond
4 requirements; liability insurance; salesperson's license; location of business

5 * * *

6 B.

7 * * *

8 (3)

9 * * *

10 (b)(i) Every application for the issuance of a used motor vehicle dealer's
11 license shall be accompanied by, ~~or supported by, such evidence as the commission~~
12 ~~shall prescribe, documenting that the dealership's general manager, office manager,~~
13 ~~title clerk, or other responsible representative of the dealership has attended a four-~~
14 ~~hour educational seminar or has registered to attend such seminar within sixty days~~
15 ~~after issuance of the license. The failure to attend the seminar shall be considered~~
16 ~~a violation of this Part. The educational seminar shall include but is not limited to~~
17 ~~the dealer requirements of this Part and the rules promulgated to implement, enforce,~~
18 ~~and administer this Part. Additionally, the seminar materials shall include a~~
19 ~~presentation of the requirements of the Department of Public Safety and~~
20 ~~Corrections, office of motor vehicles, the Department of Revenue, and such other~~
21 ~~information that will promote good business practices. Such educational seminar~~
22 ~~requirement shall not include written or oral exams~~ a certificate, as required by the
23 commission pursuant to the provisions of R.S. 32:795, showing that the applicant has
24 completed an approved educational seminar.

25 (ii) ~~The educational seminar shall be designed to develop and present~~
26 ~~educational programs that enhance the knowledge and competence of used motor~~
27 ~~vehicle dealers, their salespersons, and service personnel for the benefit of the public.~~
28 ~~The commission may approve any nonprofit corporation organized for the purpose~~
29 ~~of representing licensees of this commission to administer the educational seminar~~

1 program and may approve any for-profit corporation, association, or other entity that
 2 is associated with the used car industry to conduct the seminar and certify
 3 completion of the required attendance. However, the commission shall investigate
 4 the qualifications of and shall have the authority to approve or deny approval of all
 5 entities that desire to conduct an educational seminar for motor vehicle dealer
 6 applicants and motor vehicle dealers.

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

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

13 * * *

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

15 * * *

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

20 * * *

21 (16) Violating any provision of this Chapter, any rule or regulation adopted
 22 by the commission, or any provision of law not administered by the Louisiana Motor
 23 Vehicle Commission, relating to the proper disposition of certificates of title or
 24 permits to dismantle in connection with the purchase or sale of any used motor
 25 vehicle a used motor vehicle transaction between a used motor vehicle dealer and a
 26 consumer.

27 * * *

1 vehicle required to be registered that was used, is used, or is designed to be used for
 2 the transporting of passengers or goods for public, private, commercial, or for-hire
 3 purposes.

4 Section 2. R.S. 32:783(F)(3) and 784(B) are hereby repealed in their entirety.

5 Section 3. This Act shall become effective upon signature by the governor or, if not
 6 signed by the governor, upon expiration of the time for bills to become law without signature
 7 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 8 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 9 effective on the day following such approval.

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 Reengrossed

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.

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.

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 with respect 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. Provides the commission's entitlement to an award of reasonable attorney fees and court costs if the commission institutes or intervenes in legal action for claims against bonds.

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 redesignates present law to a new citation of proposed law.

Proposed law prohibits unlicensed persons from carrying on the business of a motor vehicle crusher as defined in present law.

Present law describes violations of present law.

Proposed law amends present law to provide that provisions of law administered by the La. Motor Vehicle Commission are not applicable to violations of present law relative to the La. Used Motor Vehicle Commission.

Present law 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 four-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.

Proposed law deletes present law.

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 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.

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 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.

Proposed 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 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, 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.

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 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.

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

Proposed law provides that the educational requirements of proposed law do not apply to a licensee who does not sell or rent used motor vehicles to consumers.

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 (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 four-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.

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), 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))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Commerce to the original bill:

1. Provide changes to statutory citations and language.
2. Provide that provisions of law administered by the La. Motor Vehicle Commission are not applicable in consideration of violations relative to the La. Used Motor Vehicle Commission.
3. Delete present and proposed law relative to the rent with option-to-purchase program.
4. Delete a present law provision prohibiting unlicensed persons from engaging in the business of a used motor vehicle salesperson for any used motor vehicle dealer.
5. Adds a prohibition relative to "selling a used motor vehicle either with a waiver of warranties or 'as is' without completing and providing to the purchaser a buyers guide if required by the Federal Trade Commission".
6. Modify proposed law to authorize a local dealership manager to complete required educational requirements.
7. Provide that educational requirements of proposed law do not apply to a licensee who does not sell or rent used motor vehicles to consumers.

The House Floor Amendments to the engrossed bill:

1. Provide for the commission's sole and exclusive authority to administer claims against any bonds, including instituting or intervening in a legal action to obtain payment or to prevent payment of an unauthorized claim.
2. Provide the commission's entitlement to an award of reasonable attorney fees and court costs if the commission institutes or intervenes in such action administering claims against bonds.