
DIGEST

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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.