

## RÉSUMÉ DIGEST

ACT 288 (HB 271)

2016 Regular Session

Price

Existing law provides relative to delivery of certificate of title to a purchaser of a vehicle. New law retains existing law and adds provisions relative to the term "endorsement". New law clarifies that nothing contained in new law shall exempt certain persons from the provisions of existing law (R.S. 47:303). New law also contains provisions relative to circumstances of release and cancellation of a lien.

Existing law enumerates powers and duties of the Louisiana Used Motor Vehicle Commission (commission). Existing law empowers the commission to take possession of certificates of title from used motor vehicle dealers in certain circumstances. New law allows the commission to also distribute those titles to the rightful owners pursuant to existing law (R.S. 32:705). New law expands the authority of the commission to take possession of certificates of title by adding floor plan financiers or other persons holding a security interest relative to a used motor vehicle who has failed or refused to provide a certificate of title to a bona fide retail purchaser in actual good faith in accordance with existing law (R.S. 32:710). New law further empowers the commission to take any action necessary to obtain and deliver a certificate of title to a retail purchaser in actual good faith including instituting or participating in any legal action to obtain a certificate of title and endorsing a certificate of title on behalf of any used motor vehicle dealer who either refuses or is unavailable to sign or endorse the certificate of title. New law also entitles the commission to an award of reasonable attorney fees and court costs to be paid by the individual or entity responsible for delivery of the certificate of title in the event that the commission institutes or participates in any legal action for the purposes of new law.

Prior law required certain representatives of used motor vehicle dealerships to include proof of attending an educational seminar but provides an exception for dealers licensed prior to 2003. New law effectually sustains the requirements imposed by prior law but removes the exception to the educational seminar requirement provided for in prior law.

Existing law requires any dealer who submits a late renewal application to pay a penalty of \$100 to the commission. New law authorizes the commission to also assess against the dealer a penalty, fine, or cost for operating without a license in addition to the \$100 late renewal application penalty.

Prior law established a schedule indicating the bond requirement amounts imposed by the commission on every applicant for licensure or renewal of license. Prior law set the required bond amounts at either \$20,000 or \$35,000 depending on the number of used motor vehicles sold by the applicant during the preceding licensure period. New law amends the required bond amount and declares that every applicant shall deposit with the commission a bond in the amount of \$50,000.

Existing law enumerates certain requirements in the furnishment of the bond. New law removes all requirements relative to the furnishment of the bond but retains the portion of existing law that requires the bond to be with a commercial surety authorized to do business in the state and be approved by the commission.

Existing law establishes the period for which the bond shall be furnished and requires a new bond to be furnished at the beginning of each new license period. New law retains existing law but clarifies that the aggregate liability of the surety in any calendar year shall in no event exceed \$50,000.

Prior law indicated that the bond shall be made payable to the state through the commission for the purpose of indemnifying of persons who suffer any loss due to any violation of the provisions of existing law and for the proper disposition of taxes and registration fees. New law effectually retains the substance of prior law but expands upon it by enumerating a list of purposes for the bond.

Existing law establishes the grounds whereby the commission may revoke or suspend, issue a fine or penalty, or enjoin a licensee. Prior law used the phrase "engaging in a practice of" in determining certain unauthorized acts of a licensee. New law removes the references to "engaging in a practice of" and further clarifies that any single event of an enumerated

unauthorized act may be deemed a violation of existing law resulting in a revocation, suspension, fine, penalty, or injunction. New law also adds, as an unauthorized act, failing to comply with existing law (R.S. 32:705) to grounds whereby the commission may revoke or suspend, issue a fine or penalty, or enjoin a licensee.

Existing law enumerates a nonexclusive list of advertising deemed to be false, misleading, or unsubstantiated. New law adds advertising a down payment without including all restrictions or limitations in the same size lettering to the enumerated list provided for in existing law.

Existing law restricts purchase agreements by requiring pre-delivery sale disclosure statements to include a statement regarding the implications of a consumer withdrawing from a purchase agreement. New law provides that a customer shall be considered as having withdrawn from an agreement if the customer intentionally provided false or fraudulent information to the dealer in connection with the transaction.

Effective August 1, 2016.

(Amends R.S. 32:783(F)(8), 791(B)(3)(b)(i) and (4)(b) and (G), 792(B)(8)-(12), (15), and (17)(a), 796(D)(3); Adds R.S. 32:705(D) and 792(17)(k) and (18))