

2015 Regular Session

HOUSE BILL NO. 533

BY REPRESENTATIVE PRICE

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

MOTOR VEHICLES: Provides relative to the regulation of used motor vehicles

1 AN ACT

2 To amend and reenact R.S. 32:781(9) and 793(B)(4)(d) and (C)(2), to enact R.S.  
3 32:792(B)(17)(j), and to repeal R.S. 32:781(1) and 792(C), relative to the regulation  
4 of used motor vehicles; to provide for definitions; to amend requirements for security  
5 deposits applicable to rental purchase agreements; to restrict repossession provisions  
6 in rental purchase agreements; to require a bona fide certification process for certain  
7 advertising; to eliminate references to "brokers"; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 32:781(9) and 793(B)(4)(d) and (C)(2) are hereby amended and  
10 reenacted and R.S. 32:792(B)(17)(j) is hereby enacted to read as follows:

11 §781. Definitions

12 As used in this Chapter:

13 \* \* \*

14 (9) "Scrap metal processor" means any person, ~~firm~~, or ~~corporation~~ entity  
15 engaged in whole or in part in the business of obtaining and storing scrap metal, as  
16 defined by R.S. 37:1962, whose origin ~~may have~~ included abandoned, wrecked, or  
17 junked motor vehicles for ~~scrap, shredding, or recycling as scrap metal~~.

18 \* \* \*

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

20 \* \* \*

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

5                                 \*       \*       \*

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

10                                \*       \*       \*

11           (j) Use of the words "certified", "certification", or other similar terms without  
12 having proof of a bona fide certification process.

13                                \*       \*       \*

14       §793. Rent with option-to-purchase program

15                                \*       \*       \*

16           B. All rental purchase agreements are required:

17                                \*       \*       \*

18           (4) To have provisions substantially equivalent to the following:

19                                \*       \*       \*

20           (d) A provision indicating the amount of the security deposit required by the  
21 rental dealer for the purpose of securing payment for any damage to the rental  
22 vehicle beyond normal wear and tear and for extraordinary repairs beyond normal  
23 maintenance and the conditions under which the said security deposit shall be  
24 refundable or nonrefundable; however, no security deposit shall exceed thirty percent  
25 of the rental dealer's documented cost of the vehicle and the amount of the security  
26 deposit shall be refundable.

27                                \*       \*       \*

28           C. A rental purchase agreement may not contain a provision:

29                                \*       \*       \*

1 (2) Authorizing a rental dealer or an agent of the rental dealer to ~~commit a~~  
2 ~~breach of the peace in the repossession of rental property or to~~ take repossession of  
3 the rental property in any manner other than what is permitted in R.S. 14:220 unless  
4 the rental consumer has failed to cure a default within five days of the later of the  
5 mailing of notice of default or actual notice of default.

6 \* \* \*

7 Section 2. R.S. 32:781(1) and 792(C) are hereby repealed in their entirety.

### 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 533 Original

2015 Regular Session

Price

**Abstract:** Provides for definitions and amends restrictions imposed on rental purchase agreements and advertising relative to the regulation of used motor vehicles.

Present law defines the term "scrap metal processor". Proposed law modifies the definition by adding that any person or entity engaged in the business of storing scrap metal will also be considered a "scrap metal processor". Proposed law also adds a statutory reference to the definition of "scrap metal" within this definition of "scrap metal processor".

Present law authorizes the Louisiana Used Motor Vehicle Commission ("commission") to revoke or suspend a license, issue a fine or penalty, or enjoin a used motor vehicle dealer, dealer of used parts or used accessories of motor vehicles, used motor vehicle auctioneer, or salesperson for the use of false, misleading, or unsubstantiated advertising in connection with his business. Present law includes a nonexclusive list enumerating examples of false, misleading, or unsubstantiated advertising. Proposed law adds advertising that uses the words "certified" or "certification" or other similar terms without having proof of a bona fide certification process to the enumerated list of false, misleading, or unsubstantiated advertising.

Present law requires all rental purchase agreements to have a provision indicating the amount of the security deposit required by the rental dealer and the conditions under which that security deposit is either refundable or nonrefundable. Proposed law prohibits the security deposit from being nonrefundable. Present law prohibits these security deposits from exceeding the rental dealer's documented cost of the vehicle. Proposed law prohibits these security deposits from exceeding 30% of the rental dealer's documented cost of the vehicle. Further, proposed law adds a provision to specify that the purpose of the security deposit is to secure payment for any damage to the rental vehicle that is beyond normal wear and tear and for any extraordinary repairs beyond normal maintenance.

Present law prohibits rental purchase agreements from including any provision that authorizes a rental dealer or an agent of the rental dealer to commit a breach of the peace in the repossession of rental property or to take repossession of rental property in any manner other than what is permitted in present law relative to criminal offenses. Proposed law prohibits rental purchase agreements from including any provision that authorizes a rental dealer or an agent of the rental dealer to take repossession unless the rental consumer fails

to cure a default within five days of the mailing of notice of default or actual notice of default, whichever is later.

Present law defines "broker". Present law provides for circumstances in which the commission may revoke or suspend a license, issue a fine or penalty, or enjoin a used motor vehicle broker. Proposed law removes the definition of and all references to "broker".

(Amends R.S. 32:781(9) and 793(B)(4)(d) and (C)(2); Adds R.S. 32:792(B)(17)(j); Repeals R.S. 32:781(1) and 792(C))