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## DIGEST

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HB 271 Engrossed

2016 Regular Session

Price

**Abstract:** Provides for the powers and duties of the Louisiana Used Motor Vehicle Commission and amends the regulations imposed on license application procedures, bond requirements, unauthorized acts, and purchase agreements relative to used motor vehicle dealers.

Present law enumerates powers and duties of the Louisiana Used Motor Vehicle Commission (commission). Present law empowers the commission to take possession of certificates of title from used motor vehicle dealers in certain circumstances. Proposed law allows the commission to also distribute those titles to the rightful owners pursuant to present law (R.S. 32:705). Proposed 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 present law (R.S. 32:710). Proposed 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. Proposed 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 proposed law.

Present law requires that all applications for licensure as a used motor vehicle dealer must include the appropriate fees as required by present law. Proposed law clarifies present law by stating that amendments to licenses must also include the appropriate fees as required by present law. Present law requires that when any application for licensure is denied and the license applied for is not issued, the entirety of the previously submitted fee shall be returned to the applicant. Proposed law amends present law by classifying 25% of the submitted fee as a nonrefundable application fee.

Present law requires 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. Proposed law removes the exception to the educational seminar requirement provided for in present law.

Present law requires any dealer who submits a late renewal application to pay a penalty of \$100 to the commission. Proposed 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.

Present law establishes a schedule indicating the bond requirement amounts imposed by the commission on every applicant for licensure or renewal of license. Present law sets the required bond amounts at either \$25,000 or \$35,000 depending on the number of used motor vehicles sold by the applicant during the preceding licensure period. Proposed law amends the required bond amount and declares that every applicant shall deposit with the commission a bond in the amount of \$50,000.

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

Present 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. Proposed law retains present law but clarifies that the aggregate liability of the surety in any calendar year shall in no event exceed \$50,000.

Present law indicates 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 present law and for the proper disposition of taxes and registration fees. Proposed law retains and expands upon present law by enumerating a list of purposes for the bond.

Present law establishes the grounds whereby the commission may revoke or suspend, issue a fine or penalty, or enjoin a licensee. Present law uses the phrase "engaging in a practice of" in determining certain unauthorized acts of a licensee. Proposed 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 present law resulting in a revocation, suspension, fine, penalty, or injunction. Proposed law also adds, as an unauthorized act, failing to have a written consignment agreement as required by present law (R.S. 32:705) to grounds whereby the commission may revoke or suspend, issue a fine or penalty, or enjoin a licensee.

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

Present 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. Proposed 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.

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