

2017 Regular Session

HOUSE BILL NO. 430

BY REPRESENTATIVE PYLANT

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. 6:969.3(B) and R.S. 32:781(13)(a), 782, 784, and 792(B)(17)(j)
3 and to enact R.S. 6:969.3(A)(7) and 969.36(A)(9) and R.S. 32:781(13)(b)(vii) and
4 (18), 783(F)(10), 791.1, and 792(B)(17)(l), relative to the regulation of used motor
5 vehicles; to provide for certain exclusions; to provide for licensing requirements; to
6 provide for definitions; to provide for legislative findings; to provide for the powers
7 and duties of the Used Motor Vehicle Commission; to enumerate certain
8 prohibitions; to impose certain procedures and requirements regarding used motor
9 vehicle sales finance licensing; to prohibit certain advertising; to provide for special
10 effectiveness; and to provide for related matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. R.S. 6:969.3(B) is hereby amended and reenacted and R.S. 6:969.3(A)(7)
13 and 969.36(A)(9) are hereby enacted to read as follows:

14 §969.3. Exclusions

15 A. Except as provided in Subsection B of this Section, this Chapter does not
16 apply to any of the following:

17 * * *

18 (7) Used motor vehicle dealers licensed pursuant to Chapter 4-C of Title 32
19 of the Revised Statutes of 1950.

1 B. All persons, except those licensed pursuant to Chapter 4-C of Title 32 of
2 the Revised Statutes of 1950, financing the purchase or acquisition of a motor
3 vehicle, irrespective of whether the transaction otherwise is subject to this Chapter,
4 shall comply with the requirements of R.S. 32:1251 et seq. and the rules and
5 regulations of the Louisiana Motor Vehicle Commission pertaining to advertising.

6 * * *

7 §969.36. License not required

8 A. All of the following shall be exempt from the licensing requirements of
9 this Chapter:

10 * * *

11 (9) Used motor vehicle dealers licensed pursuant to Chapter 4-C of Title 32
12 of the Revised Statutes of 1950.

13 * * *

14 Section 2. R.S. 32:781(13)(a), 782, 784, and 792(B)(17)(j) are hereby amended and
15 reenacted and R.S. 32:781(13)(b)(vii) and (18), 783(F)(10), 791.1, and 792(B)(17)(l) are
16 hereby enacted to read as follows:

17 §781. Definitions

18 As used in this Chapter:

19 * * *

20 (13)(a)(~~†~~) "Used motor vehicle dealer" means any person, partnership,
21 corporation, limited liability company, or other entity who, for a commission or with
22 intent to make a profit or gain of money or other thing of value, buys, sells, brokers,
23 exchanges, rents ~~with option to purchase~~, auctions at retail or public, offers, or
24 attempts to negotiate a sale or exchange of an interest in used motor vehicles and
25 who is engaged wholly or in part in the business of buying and selling used motor
26 vehicles, whether such motor vehicles are owned by such person and whether the
27 motor vehicles are sold from a dealership location or via any form of advertising,
28 including but not limited to the Internet. A person shall be presumed to be engaged
29 in the business of selling used motor vehicles if he sells five or more used motor

1 vehicles in any twelve-month period which vehicles are not registered to and insured
2 by members of the individual's household, immediate family members, or legal
3 entities in which the individual has an ownership interest or which employ the
4 individual. ~~An entity shall be presumed to be engaged in the business of selling used~~
5 ~~motor vehicles if the entity sells five or more used motor vehicles which are not~~
6 ~~registered to and insured by the entity or by an entity affiliated with the entity~~
7 ~~receiving anything of value.~~

8 (ii) ~~The term shall also include anyone not licensed under Chapter 6 of Title~~
9 ~~32 of the Louisiana Revised Statutes of 1950 who sells used motor vehicles and who~~
10 ~~rents on a daily basis used motor vehicles.~~

11 (b) "Used motor vehicle dealer" shall not include any of the following:

12 * * *

13 (vii) Motor vehicle dealers licensed by the Louisiana Motor Vehicle
14 Commission pursuant to Chapter 6 of Title 32 of the Louisiana Revised Statutes of
15 1950.

16 * * *

17 (18) "Rent" or "Daily rental" means engaging in the business of renting used
18 motor vehicles not of the current or immediate prior year models that have been
19 titled previously to an ultimate purchaser.

20 §782. ~~Jurisdiction and authority of commission~~ Commission; legislative findings

21 ~~The provisions of this Chapter shall not apply to any person, partnership,~~
22 ~~corporation, limited liability company, or other entity that is licensed or regulated by~~
23 ~~the Louisiana Motor Vehicle Commission. If any provision of this Chapter conflicts~~
24 ~~with any provision of Chapter 6 of this Title, the provisions of Chapter 6 of this Title~~
25 ~~shall prevail~~ legislature finds all of the following:

26 (1) The used motor vehicle industry is a collection of various businesses,
27 including used motor vehicle dealerships, used motor vehicle auctions, used motor
28 vehicle renters, motor vehicle dismantlers and parts recyclers, crushers, and salvage
29 pool dealers, which are a vital part of the commerce of the state of Louisiana.

1 award of reasonable attorney fees and court costs to be paid by the entity responsible
2 for the nonpayment or payment related to the bond.

3 * * *

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

5 A. No person, firm, or corporation, unless licensed by the commission ~~under~~
6 pursuant to the provisions of this Chapter, shall carry on or conduct the business of:

7 (1) A used motor vehicle dealer.

8 (2) A dealer in used parts or used accessories of motor vehicles.

9 (3) A dismantler and parts recycler.

10 (4) Public or retail motor vehicle auctions, wholesale motor vehicle auctions,
11 or salvage pools that deal in used motor vehicles.

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

14 (6) A used motor vehicle salesperson for any dealer licensed pursuant to this
15 Chapter.

16 (7) A used motor vehicle dealer who rents or provides daily rentals of used
17 motor vehicles.

18 (8) A used motor vehicle dealer engaged in the business of making consumer
19 loans for the purchase or acquisition of a used motor vehicle.

20 ~~B. Any motor vehicle dealer, not licensed under the provisions of Chapter~~
21 ~~6 of this Title, who rents on a daily basis motor vehicles not of the current year or~~
22 ~~immediate prior year models, that have been titled previously to an ultimate~~
23 ~~purchaser, shall be subject to the regulation of the Louisiana Used Motor Vehicle~~
24 ~~Commission.~~

25 ~~C.~~ No person, partnership, corporation, limited liability company, or other
26 entity, unless licensed by the commission as a used car dealer, shall engage in the
27 business as a "broker", "purchasing company", "sales agent", or similar title for the
28 procurement of prospective purchasers for used motor vehicles.

1 (a) The signature of the applicant.

2 (b) All information regarding the type of assistance to be offered to
3 consumers in obtaining the financing.

4 (c) The name of any third party entity who may be involved and through
5 which financing will be offered.

6 (d) Any other information that the commission deems necessary either to
7 fully determine the qualifications and eligibility of an applicant or to safeguard the
8 general interest and welfare of the public.

9 (2) All applications for a license for motor vehicle sales finance shall be
10 accompanied by the appropriate fee or fees in accordance with the schedule provided
11 for in this Section. In the event that any application is denied and the license is not
12 granted, the application fee, less a processing fee of twenty-five dollars, shall be
13 returned to the applicant.

14 C.(1) Every application for a license for motor vehicle sales finance shall be
15 accompanied or supported by any evidence the commission shall prescribe for the
16 purpose of documenting that the general manager, office manager, title clerk, or
17 other responsible representative of a dealership has attended the educational seminar
18 required by R.S. 32:791.

19 (2) The educational seminar shall be designed to develop and present
20 programs that enhance the knowledge and competence of independent used motor
21 vehicle dealers, their salespersons, and service personnel who assist consumers with
22 applying for financing.

23 (3) The educational seminar shall include instruction regarding the Louisiana
24 Motor Vehicle Sales Finance Act, dealer requirements imposed by the provisions of
25 this Part, any rules promulgated to implement, enforce, or administer this Part, and
26 any such other information that will promote good business practices.

27 (4) The commission shall do all of the following:

28 (a) Create a uniform document used to both certify completion of the
29 seminar and detail all materials used in conducting the seminar.

declaring that the term "used motor vehicle dealer" includes anyone not licensed under certain provisions of present law who sells used motor vehicles and who rents on a daily basis used motor vehicles.

Present law enumerates a list of certain persons who are not included in the term "used motor vehicle dealer". Proposed law adds motor vehicle dealers licensed by the La. Motor Vehicle Commission pursuant to present law.

Proposed law defines "rent" and "daily rental".

Present law establishes the general jurisdiction and authority of the commission. Proposed law deletes present law and enumerates a list of legislative findings regarding the purpose and necessity of the commission.

Present law enumerates a nonexclusive list of the powers of the commission. Proposed law adds to the list. Proposed law provides that the commission has the sole and exclusive authority to administer all claims made against a particular bond required by present law (R.S. 32:791(G)), including the denial or rejection of any claim. Proposed law further provides that the executive director of the commission is authorized to take any and all actions necessary to administer and obtain payments related to the bond, including instituting any legal action to obtain payment related to the bond and preventing any unauthorized payment related to the bond. Proposed law also provides that if the commission institutes or participates in any legal action to obtain payment or to prevent payment related to the bond, the commission is entitled to an award of reasonable attorney fees and court costs to be paid by the entity responsible for the nonpayment or payment related to the bond.

Present law enumerates a list of activities or businesses prohibited to persons not licensed by the commission. Proposed law adds to that list both of the following persons:

- (1) A used motor vehicle dealer who rents or provides daily rentals of used motor vehicles.
- (2) A used motor vehicle dealer engaged in the business of making consumer loans for the purchase or acquisition of a used motor vehicle.

Present law provides that any motor vehicle dealer, not licensed under the provisions of present law, who rents on a daily basis motor vehicles not of the current year or immediate prior year models, that have been titled previously to an ultimate purchaser, shall be subject to the regulation of the commission. Proposed law deletes present law.

Proposed law maintains the remainder of present law.

Proposed law provides that it shall be unlawful for any used motor vehicle dealer to make a loan to a consumer or, for compensation or other monetary gain, to provide loan origination services to any consumer for the financing of a used motor vehicle, unless the used motor vehicle dealer has a current motor vehicle sales finance license issued by the commission.

Proposed law provides that any used motor vehicle dealer having more than one location where business is conducted shall be required to obtain and hold a current license for each location in which the used motor vehicle dealer provides assistance to any consumer applying for financing the sale of a used motor vehicle.

Proposed law provides that all used motor vehicle dealers shall comply with the provisions of the La. Motor Vehicle Sales Finance Act (R.S. 6:969.1, et seq.), and any violation of that Act shall subject the violator to any penalties or other remedies provided by law, including present law (R.S. 32:785, 786, and 788).

Proposed law requires that any application for a used motor vehicle sales finance license be on a form prescribed by the commission and shall include the following:

- (1) The signature of the applicant.
- (2) All information regarding the type of assistance to be offered to consumers in obtaining the financing.
- (3) The name of any third party entity who may be involved and through which financing will be offered.
- (4) Any other information that the commission deems necessary either to fully determine the qualifications and eligibility of an applicant or to safeguard the general interest and welfare of the public.

Proposed law requires that all applications for a license for motor vehicle sales finance be accompanied by the appropriate fee or fees in accordance with the schedule provided for in proposed law. In the event that any application is denied and the license is not granted, the application fee, less a processing fee of \$25, shall be returned to the applicant.

Proposed law requires every application for a license for motor vehicle sales finance be accompanied or supported by any evidence the commission shall prescribe for the purpose of documenting that the general manager, office manager, title clerk, or other responsible representative of a dealership has attended the educational seminar required by present law (R.S. 32:791).

Proposed law requires that the educational seminar be designed to develop and present programs that enhance the knowledge and competence of independent used motor vehicle dealers, their salespersons, and service personnel who assist consumers with applying for financing.

Proposed law requires the educational seminar to include instruction regarding the La. Motor Vehicle Sales Finance Act, dealer requirements imposed by the provisions of present law and proposed law, any rules promulgated to implement, enforce, or administer present law and proposed law, and any such other information that will promote good business practices.

Proposed law requires the commission to do all of the following:

- (1) Create a uniform document used to both certify completion of the seminar and detail all materials used in conducting the seminar.
- (2) Approve any fees charged for seminar materials and attendance.
- (3) Promulgate any rules necessary to implement the educational seminar program.

Proposed law requires that the schedule of license fees to be charged and received by the commission for a motor vehicle sales finance license be as follows:

- (1) A maximum of \$150 for the principal place of business of the used motor vehicle dealer.
- (2) \$100 for each place of business, in addition to the principal place of business of the used motor vehicle dealer, in which the used motor vehicle dealer provides assistance to any consumer applying for financing the sale of a used motor vehicle.

Present law imposes restrictions on a nonexclusive list of activities deemed to be prohibited forms of advertising. Proposed law maintains present law but adds to the nonexclusive list. Proposed law prohibits advertising from including within the name of the business of the

used motor vehicle dealership the word, "certified". Proposed law further prohibits advertising from including within the name of the business of the used motor vehicle dealership the word, "wholesale", or using the word, "wholesale," in any advertisement.

Proposed law clarifies that certain provisions of proposed law relative to used motor vehicle sales finance licensing shall not be effective until January 1, 2018.

Proposed law clarifies that certain provisions of proposed law relative to advertising prohibitions shall not be effective until January 1, 2020.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 6:969.3(B) and R.S. 32:781(13)(a), 782, 784, and 792(B)(17)(j); Adds R.S. 6:969.3(A)(7) and 969.36(A)(9) and R.S. 32:781(13)(b)(vii) and (18), 783(F)(10), 791.1, and 792(B)(17)(l))