

Regular Session, 2012

HOUSE BILL NO. 804

BY REPRESENTATIVE JAMES

MOTOR VEHICLES: Makes changes in the provisions regulating used motor vehicles

1 AN ACT

2 To amend and reenact R.S. 32:781(12), (13)(a), 788(B), 792(B)(16), 793(A)(introductory
3 paragraph) and (2) and to enact R.S. 32:781(18) and 795, relative to used motor
4 vehicles; to provide for definitions; to provide relative to civil penalties; to provide
5 for definitions in rent with option-to-purchase program; to provide relative to
6 deposits and down payments; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 32:781(12), (13)(a), 788(B), 792(B)(16), 793(A)(introductory
9 paragraph) and (2) are hereby amended and reenacted and R.S. 32:781(18) and 795 are
10 hereby enacted to read as follows:

11 §781. Definitions

12 As used in this Chapter:

13 * * *

14 (12) "Used motor vehicle" means a motor vehicle, the legal title of which has
15 been transferred by a manufacturer, distributor, or dealer to an ultimate purchaser.
16 For purposes of this Chapter a "used motor vehicle" includes used cars and trucks,
17 used motor homes, used motorcycles, used all-terrain vehicles, used powered carts,
18 ~~used recreational trailers~~, used recreational vehicles, used motor boats, ~~used boat~~
19 ~~trailers~~, used travel trailers, used ambulances, used buses, used fire trucks, used
20 conversion vehicles, used wreckers, used hearses and ~~used semitrailers~~ used
21 personal watercraft.

22 (13)(a)(i) "Used motor vehicle dealer" means any person, partnership,
23 corporation, limited liability company, or other entity who, for a commission or with

1 intent to make a profit or gain of money or other thing of value, buys, sells, brokers,
 2 exchanges, rents with option to purchase, auctions, offers, or attempts to negotiate
 3 a sale or exchange of an interest in used motor vehicles and who is engaged wholly
 4 or in part in the business of buying and selling used motor vehicles, whether such
 5 motor vehicles are owned by such person and whether the motor vehicles are sold
 6 from a dealership location or via any form of advertising, including but not limited
 7 to the Internet. A person shall be presumed to be engaged in the business of selling
 8 used motor vehicles if he sells five or more used motor vehicles in any twelve-month
 9 period which vehicles are not registered to and insured by members of the
 10 individual's household, immediate family members, or legal entities which the
 11 individual has an ownership interest in or is employed by. An entity shall be
 12 presumed to be engaged in the business of selling used motor vehicles if the entity
 13 sells five or more used motor vehicles which are not registered to and insured by the
 14 entity or by an entity affiliated with the entity receiving anything of value.

15 (ii) The term shall also include anyone not licensed under Chapter 6 of Title
 16 32 of the Louisiana Revised Statutes of 1950 who sells ~~used cars and trucks, used~~
 17 ~~motorcycles, used trailers, used semitrailers, used travel trailers, used buses, used fire~~
 18 ~~trucks, used wreckers, used conversion vehicles, used recreational vehicles, used~~
 19 ~~motor homes, used hearses, or used ambulances~~ used motor vehicles and who rents
 20 or leases on a daily basis used motor vehicles, not of the current year or immediate
 21 prior year models, that have been titled previously to an ultimate purchaser.

22 * * *

23 (18) "Rent to own dealer" means any dealer who rents any used motor
 24 vehicle to a consumer pursuant to an agreement providing for rent with option- to-
 25 purchase program as provided in R.S. 32:793.

26 * * *

27 §788. Civil penalties

28 * * *

1 failure of the rental consumer to maintain minimum insurance required pursuant to
2 a rental purchase agreement.

3 * * *

4 §795. Deposits and down payments; disclosure; return

5 A. Every used motor vehicle dealer who accepts a deposit or a down
6 payment from a consumer shall provide the consumer with a purchase agreement
7 statement containing the following:

8 (1) A complete description of the motor vehicle subject to the purchase
9 agreement, including the make, model, year, and vehicle identification number.

10 (2) The purchase price of the vehicle.

11 (3) The amount of the deposit or down payment.

12 (4) A statement identifying whether the funds received by the dealer are for
13 deposit or down payment.

14 (5) Any conditions necessary to complete the sale.

15 B. Every used motor vehicle dealer who accepts a deposit or down payment
16 for a purchase agreement conditioned upon the consumer's ability to obtain financing
17 of the remainder of the purchase price shall return the deposit or down payment upon
18 a determination that the consumer does not qualify for financing. If no
19 determination is made regarding financing within twenty days of the receipt of the
20 deposit or down payment, the deposit or down payment shall be returned to the
21 consumer at the end of the twenty-day period.

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)]

James

HB No. 804

Abstract: Changes definitions and penalty provisions and establishes requirements for deposits and down payments relative to the regulation of used motor vehicles.

Present law, for the purposes of regulation by the La. Used Motor Vehicle Commission, defines "used motor vehicle" as including used motor homes, used motorcycles, used all-terrain vehicles, used recreational vehicles, used trailers, used boat trailers, used ambulances, used buses, used fire trucks, used conversion vehicles, used wreckers, and used semitrailers.

Proposed law clarifies the definition of "used motor vehicle" by including used cars and trucks, used powered carts, used motor boats, used travel trailers, used hearses, and used personal watercraft. The definition no longer includes used recreational trailers, used boat trailers, and used semitrailers. Definition changes are made to clean up present law inconsistencies created when certain regulatory provisions were moved from the La. Used Motor Vehicle Commission to the La. Motor Vehicle Commission.

Proposed law clarifies that the term "used motor vehicle dealer" in the regulation of used motor vehicles does not include anyone licensed by the La. Motor Vehicle Commission who sells used motor vehicles and who rents or leases used motor vehicles on a daily basis.

Proposed law defines "rent to own dealer" as any dealer who rents any used motor vehicle to a consumer pursuant to any agreement providing for a rent with an option-to-purchase program.

Present law provides civil penalties for violations of the regulatory provisions, but provides that no civil penalty shall exceed \$2,000 for each day the violation continues and provides that on a second or subsequent violation, the penalty shall not exceed \$3,000 for each day the second or subsequent violation continues. Present law further provides that penalties imposed for violations of the provisions regulating dismantlers, parts recyclers, motor vehicle crushers, and scrapped motor vehicle dealers shall not exceed \$500 for each day the violation continues and provides that on a second or subsequent violation, the penalty shall not exceed \$1,000 for each day the second or subsequent violation continues.

Proposed law deletes present law penalties specified for violations of the provisions regulating dismantlers, parts recyclers, motor vehicle crushers, and scrapped motor vehicle dealers, subjecting those violations to the same penalties as all other violations under the used motor vehicle regulatory provisions.

Present law allows the commission to revoke or suspend a license, issue a fine or penalty, or enjoin a used motor vehicle dealer, used parts or accessories dealer, used motor vehicle auctioneer or salesperson for certain violations of the regulatory provisions.

Proposed law retains present law and includes the violating of provisions 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 in the list of violations subject to penalty by the commission.

Present law provides for regulation of a rent with option-to-purchase program and defines "default" as the failure of a rental consumer to bring the account current within five days after the rent to own payment is due.

Proposed law retains present law and provides that "default" also means the failure of the rental consumer to maintain the minimum insurance required pursuant to the rental purchase agreement.

Proposed law requires every used motor vehicle dealer who accepts a deposit or down payment from a consumer to provide the consumer with a purchase agreement statement containing:

- (1) A complete description of the motor vehicle subject to the purchase agreement, including the make, model, year, and vehicle identification number.
- (2) The purchase price of the vehicle.
- (3) The amount of the deposit or down payment.
- (4) A statement identifying whether the funds received by the dealer are for deposit or down payment.

(5) Any conditions necessary to complete the sale.

Proposed law further requires every used motor vehicle dealer who accepts a deposit or down payment from a consumer conditioned upon the consumer's ability to obtain financing of the remainder of the purchase price to return the deposit or down payment once it is determined that the consumer does not qualify for financing. Requires that if no determination regarding financing is made within 20 days, the deposit or down payment must be returned to the consumer.

(Amends R.S. 32:781(12), (13)(a), 788(B), 792(B)(16), 793(A)(intro. para.) and (2); Adds R.S. 32:781(18) and 795)