

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(5), (12), and (13)(a), 788(B), 793(A)(introductory
3 paragraph), (2), and (5) and to enact R.S. 32:792(B)(16) and 795, relative to used
4 motor vehicles; to provide for definitions; to provide relative to civil penalties; to
5 provide for definitions in rent with option-to-purchase program; to provide relative
6 to 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(5), (12), and (13)(a), 788(B), 793(A)(introductory
9 paragraph), (2), and (5) are hereby amended and reenacted and R.S. 32:792(B)(16) and 795
10 are hereby enacted to read as follows:

11 §781. Definitions

12 As used in this Chapter:

13 * * *

14 (5) "Motor vehicle" means any motor-driven car, van, or truck required to
15 be registered pursuant to the Vehicle Registration License Tax Law, R.S. 47:451 et
16 seq., which is used or is designed to be used, for the transporting of passengers or
17 goods for public, private, commercial, or for-hire purposes ~~and includes used,~~
18 including motor homes, ~~used~~ motorcycles, ~~used~~ all-terrain vehicles, ~~used~~ recreational
19 vehicles, travel trailers, ~~used~~ boat trailers, ~~used~~ ambulances, ~~used~~ buses, ~~used~~ fire
20 trucks, ~~used~~ conversion vehicles, ~~used~~ wreckers, ~~and used~~ semitrailers, hearses, and
21 marine products, as any of the terms are defined in R.S. 32:1252.

22 * * *

1 (12) "Used motor vehicle" means a motor vehicle, ~~the legal title of~~ which
2 has ~~been transferred by a manufacturer, distributor, or dealer to an ultimate~~
3 ~~purchaser. For purposes of this Chapter a "used motor vehicle" includes used motor~~
4 ~~homes, used motorcycles, used all-terrain vehicles, used recreational trailers, used~~
5 ~~boat trailers, used ambulances, used buses, used fire trucks, used conversion~~
6 ~~vehicles, used wreckers, and used semitrailers~~ been previously titled to an ultimate
7 purchaser as defined in R.S. 32:1252.

8 (13)(a)(i) "Used motor vehicle dealer" means any person, partnership,
9 corporation, limited liability company, or other entity who, for a commission or with
10 intent to make a profit or gain of money or other thing of value, buys, sells, brokers,
11 exchanges, rents with option to purchase, auctions, offers, or attempts to negotiate
12 a sale or exchange of an interest in used motor vehicles and who is engaged wholly
13 or in part in the business of buying and selling used motor vehicles, whether such
14 motor vehicles are owned by such person and whether the motor vehicles are sold
15 from a dealership location or via any form of advertising, including but not limited
16 to the Internet. A person shall be presumed to be engaged in the business of selling
17 used motor vehicles if he sells five or more used motor vehicles in any twelve-month
18 period which vehicles are not registered to and insured by members of the
19 individual's household, immediate family members, or legal entities which the
20 individual has an ownership interest in or is employed by. An entity shall be
21 presumed to be engaged in the business of selling used motor vehicles if the entity
22 sells five or more used motor vehicles which are not registered to and insured by the
23 entity or by an entity affiliated with the entity receiving anything of value.

24 (ii) The term shall also include anyone not licensed under Chapter 6 of Title
25 32 of the Louisiana Revised Statutes of 1950 who sells ~~used cars and trucks, used~~
26 ~~motorcycles, used trailers, used semitrailers, used travel trailers, used buses, used fire~~
27 ~~trucks, used wreckers, used conversion vehicles, used recreational vehicles, used~~
28 ~~motor homes, used hearses, or used ambulances~~ used motor vehicles and who rents

1 on a daily basis used motor vehicles ; ~~not of the current year or immediate prior year~~
2 ~~models, that have been titled previously to an ultimate purchaser.~~

3 * * *

4 §788. Civil penalties

5 * * *

6 B.(1) No civil penalty imposed for the violation of the provisions of this
7 Chapter or the rules and regulations of the commission shall exceed two thousand
8 dollars for each day such violation continues. ~~However, no penalty imposed for a~~
9 ~~violation of Part III of this Chapter shall exceed five hundred dollars for each day~~
10 ~~such violation continues.~~

11 (2) On a second or subsequent violation, no civil penalty imposed shall
12 exceed three thousand dollars for each day such second or subsequent violation
13 continues. ~~However, no penalty imposed for a violation of Part III of this Chapter~~
14 ~~shall exceed one thousand dollars for each day such second or subsequent violation~~
15 ~~continues.~~ In order to constitute a second or subsequent violation there must occur
16 a lapse of at least one day following the first or previous violation.

17 * * *

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

19 * * *

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

24 * * *

25 (16) Violating any provision of this Chapter, any rule or regulation adopted
26 by the commission, or any provision of law relating to the proper disposition of
27 certificates of title or permits to dismantle in connection with the purchase or sale of
28 any used motor vehicle.

29 * * *

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

2 A. ~~Definitions~~ As used in this Section:

3 * * *

4 (2) "Default" means the failure of a rental consumer to bring the rental
5 account current within five days after the ~~rent-to-own~~ rental payment is due or the
6 failure of the rental consumer to maintain minimum insurance required pursuant to
7 a rental purchase agreement.

8 * * *

9 (5) ~~"Rental dealer" means a person who regularly provides used motor~~
10 ~~vehicles under a vehicle rent with option-to-purchase agreement.~~ "Rent-to-own
11 dealer" means a used motor vehicle dealer who rents used motor vehicles under a
12 rental purchase agreement.

13 * * *

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

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

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

20 (2) The purchase price of the vehicle.

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

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

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

25 B. Every used motor vehicle dealer who accepts a deposit or down payment
26 for a purchase agreement conditioned upon the consumer's ability to obtain financing
27 of the remainder of the purchase price shall return the deposit or down payment upon
28 a determination that the consumer does not qualify for financing. If no
29 determination is made regarding financing within twenty days of the receipt of the

1 deposit or down payment, the deposit or down payment shall be returned to the
2 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 "motor vehicle" as any motor driven car, van, or truck required to be registered which is used for transporting passengers or goods, including motor homes, used motorcycles, used all-terrain vehicles, used recreational trailers, used boat trailers, used ambulances, used buses, used fire trucks, used conversion vehicles, used wreckers, and used semitrailers. 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 "motor vehicle" by referring to those motor-driven cars, vans, or trucks required to be registered pursuant to the Vehicle Registration License Tax Law, takes out references to "used" and includes recreational vehicles, travel trailers, hearses and marine products. Clarifies the definition of "used motor vehicle" as meaning any motor vehicle which has been previously titled to an ultimate purchaser. 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 on a daily basis used motor vehicles.

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 defines "rent-to-own dealer" as any used motor vehicle dealer who rents used motor vehicles under a 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(5), (12), and (13)(a), 788(B), 793(A)(intro. para.), (2), and (5); Adds R.S. 32:792(B)(16) and 795)

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Commerce to the original bill.

1. Clarified the definition of "motor vehicle" by referring to those motor-driven cars, vans, or trucks required to be registered pursuant to the Vehicle Registration License Tax Law, takes out references to "used" and includes recreational vehicles, travel trailers, hearses, and marine products.
2. Clarified the definition of "used motor vehicle" as meaning any motor vehicle which has been previously titled to an ultimate purchaser.

3. Clarified that the term "used motor vehicle dealer" does not include anyone licensed by the La. Motor Vehicle Commission who sells used motor vehicles and who rents on a daily basis used motor vehicles.
4. Defined "rent-to-own dealer" as any used motor vehicle dealer who rents used motor vehicles under a rental purchase agreement.