

Regular Session, 2012
HOUSE BILL NO. 804
BY REPRESENTATIVE JAMES

ACT No. 136

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.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____