
DIGEST

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Price

HB No. 547

Abstract: Makes various changes to the provisions regulating used motor vehicles and the La. Used Motor Vehicle Commission.

Present law defines various terms including "dismantler and parts recycler sales representative" as anyone who for compensation sells any used motor vehicle. Proposed law adds those who sell any usable part of a used motor vehicle. Present law defines "place of business" as a place owned or leased for the purpose of selling used motor vehicles, crushing and selling, or dismantling or recycling. Proposed law adds to the place of business those owned or leased for the purpose of auctioning or renting used motor vehicles. Present law defines "used motor vehicle salesperson" as anyone who is actively engaged in selling a used motor vehicle or recreational product, including those engaged in finance and insurance who are compensated for referral of a prospective buyer. Proposed law deletes those who sell recreational products and includes those in management who are compensated for referral of a prospective buyer.

Present law prohibits any person from conducting the business of a rental dealer without being licensed by the commission. Proposed law specifies that any person conducting business as a rent-to-own dealer or rents used motor vehicles on a daily basis must be licensed by the commission. Further provides for licensure of used motor vehicle salespersons for any licensed dealer.

Proposed law makes various changes to the procedures for denial, suspension, or revocation of a license and notice, hearing, and appeals as follows:

- (1) Requires the executive director to notify each applicant for licensure in writing of the action taken by the commission on the application. Requires notification of grounds to any applicant denied a license. Allows an applicant whose application was denied to request a review in writing within 30 days of receipt of the denial. Requires the commission to hear all denials promptly and with reasonable notice. Requires the applicant to provide written or oral support for his application. Requires the commission to affirm or reverse the denial after the review.
- (2) Allows any licensee charged with a violation to have a hearing on the alleged violation. Requires the commission to serve the licensee with written notice of the hearing at least 20 days prior to the hearing and provides for types of service. Requires the notice to contain certain information. Requires copies of the notice to be mailed to certain applicable persons. Allows any party to the hearing to request the subpoena of witnesses

and requires the commission to issue them at least 10 days prior to the hearing. Requires the party requesting the subpoenas to pay all costs. Allows the commission to subpoena witnesses. Requires the commission to consider any pleading filed by a licensee at least five days prior to the hearing. Requires the commission to determine violations. Allows the commission to impose various sanctions and enter into stipulations. Requires all commission orders to be reduced to writing and served on the licensee. Requires appeals to be heard in accordance with the APA.

- (3) Requires the license of the dealer and any salespersons of an abandoned premise to be revoked without hearing after posting notice on the door of the abandoned premise if a hearing is not requested within five days. Considers a premise abandoned if there are no salespersons or dealer on the premises during posted business hours for more than a week without notice to the commission, the business telephone has been disconnected, or the business sign has been removed.

Present law provides for a fine of up to \$1,000 for any person who violates the black market sales prohibitions. Proposed law increases the fine for violation to \$3,000.

Present law allows for the denial of a license as a used motor vehicle dealer, dealer in used parts or used accessories, used motor vehicle auctioneer, or salesperson for various reasons. Proposed law specifies that the commission is allowed to deny any license issued under the provisions of present law. Provides further that where the applicant is related to, the former employee of or a former business associate of a dealer whose license was previously revoked or suspended, and the applicant plans to operate the same or similar business or will be participating with the revoked licensee, the commission may deny licensure.

Present law provides for unlawful acts by wholesale motor vehicle auctioneers including prohibiting any person other than a licensed dealer or salesperson to participate in the bid process for the purchase of a used motor vehicle at auction. Proposed law deletes the reference to salesperson and specifies that any person other than one who holds a current authorization to bid for a licensed dealer is prohibited from participating in the auction.

(Amends R.S. 32:781(4), (7), and (14), 784(A)(intro. para.) and (5), 785, 790(B), 792(A)(intro. para.), and 794(A)(3); Adds R.S. 32:784(A)(6) and 792(A)(5))

Summary of Amendments Adopted by House

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

1. Deleted provision regarding jurisdiction relative to the La. Motor Vehicle Commission.
2. Specified that a premises is abandoned if there are no salespersons or dealers on the premises during the posted business hours for more than one week without notice to the commission, the business telephone is disconnected or the business sign has been

removed.

3. Made various technical changes.