

ACT No. 435

2018 Regular Session

HOUSE BILL NO. 514

BY REPRESENTATIVE SHADOIN AND SENATOR WALSWORTH

1 AN ACT

2 To amend and reenact R.S. 32:781(5), 782, 784(A)(introductory paragraph) and (5),
3 791(B)(3)(b), 792(B)(16), and 801, to enact R.S. 32:783(F)(10), 784(A)(7) and (8),
4 792(B)(19), and 795 and to repeal R.S. 32:783(F)(3) and 784(B), relative to the
5 regulation of used motor vehicles; to amend definitions; to provide for the purpose
6 of the Used Motor Vehicle Commission; to provide for the powers and duties of the
7 commission; to provide for certain prohibitions and unauthorized acts; to amend
8 relative to applications for licensure; to provide for educational requirements and
9 procedure; to provide for exceptions; to repeal relative to dealer sales and certain
10 educational seminars; to provide for effectiveness; and to provide for related matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. R.S. 32:781(5), 782, 784(A)(introductory paragraph) and (5),
13 791(B)(3)(b), 792(B)(16), and 801 are hereby amended and reenacted and R.S.
14 32:783(F)(10), 784(A)(7) and (8), 792(B)(19), and 795 are hereby enacted to read as
15 follows:

16 §781. Definitions

17 As used in this Chapter:

18 * * *

19 (5) "Motor vehicle" means any motor-driven ~~car, van, or truck required to~~
20 ~~be registered pursuant to the Vehicle Registration License Tax Law, R.S. 47:451 et~~
21 ~~seq., or any vehicle manufactured for off-road use and issued a manufacturer's~~
22 ~~statement or certificate of origin, as required by the Louisiana Motor Vehicle~~

1 ~~Commission, that cannot be issued a registration certificate and license to operate on~~
2 ~~the public roads of this state because, at the time of manufacture, the vehicle does not~~
3 ~~meet the safety requirements prescribed by R.S. 32:1301 through 1310 which is used~~
4 ~~or is designed to be used, for the transporting of passengers or goods for public,~~
5 ~~private, commercial, or for-hire purposes including but not limited to motor homes,~~
6 ~~motorcycles, all-terrain vehicles, recreational vehicles, travel trailers, boat trailers,~~
7 ~~ambulances, buses, fire trucks, conversion vehicles, wreckers, semitrailers, hearses,~~
8 ~~and marine products, as any of the terms are defined in R.S. 32:1252~~ vehicle required
9 to be registered that was used, is used, or is designed to be used for the transporting
10 of passengers or goods for public, private, commercial, or for-hire purposes.

* * *

12 §782. ~~Jurisdiction~~ jurisdiction and authority of the commission

13 A. The Louisiana Used Motor Vehicle Commission is created for the
14 purpose of developing and advancing the independent used motor vehicle industry,
15 promoting and stimulating its businesses, and encouraging fair business practices to
16 strive for fair competition. Further, the commission understands its role in
17 representing the consumers of used motor vehicles and seeks to protect their interests
18 by strengthening the relationship between dealers and consumers, assisting in dispute
19 resolution, maintaining education programs to promote industry standards, and
20 assisting the office of motor vehicles in enforcement of its laws related to used motor
21 vehicle transactions.

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

27 §783. Used Motor Vehicle Commission; appointment and qualification; terms of
28 office; powers and duties

* * *

1 F. The commission's powers and duties shall include but are not limited to
2 the following:

3 * * *

4 (10) Having the sole and exclusive authority to administer all claims made
5 against the bond required by R.S. 32:791(G), including the denial or rejection of any
6 claim.

7 (a) The executive director of the commission is authorized to take any action
8 necessary to administer claims against any bond, including instituting or intervening
9 in a legal action to obtain payment of a claim or to prevent payment of an
10 unauthorized claim.

11 (b) If the commission institutes or intervenes in any legal action as
12 authorized by Subparagraph (a) of this Paragraph and prevails, the court shall award
13 the commission reasonable attorney fees and court costs to be paid by the licensee,
14 surety, or both.

15 * * *

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

17 A. No person, firm, or corporation, unless licensed by the commission under
18 the provisions of this Chapter, shall carry on or conduct the business of any of the
19 following:

20 * * *

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

23 * * *

24 (7) A used motor vehicle dealer who provides daily rentals of used motor
25 vehicles as defined in R.S. 32:781.

1 (8) A motor vehicle crusher as defined in R.S. 32:781.

2 * * *

3 §791. Application for license; ~~fee;~~ renewal; fees; educational seminar; bond
4 requirements; liability insurance; salesperson's license; location of business

5 * * *

6 B.

7 * * *

8 (3)

9 * * *

10 (b)(~~†~~) Every application for the issuance of a used motor vehicle dealer's
11 license shall be accompanied by, ~~or supported by,~~ such evidence as the commission
12 shall prescribe, ~~documenting that the dealership's general manager, office manager,~~
13 ~~title clerk, or other responsible representative of the dealership has attended a four-~~
14 ~~hour educational seminar or has registered to attend such seminar within sixty days~~
15 ~~after issuance of the license. The failure to attend the seminar shall be considered~~
16 ~~a violation of this Part. The educational seminar shall include but is not limited to~~
17 ~~the dealer requirements of this Part and the rules promulgated to implement, enforce,~~
18 ~~and administer this Part. Additionally, the seminar materials shall include a~~
19 ~~presentation of the requirements of the Department of Public Safety and~~
20 ~~Corrections, office of motor vehicles, the Department of Revenue, and such other~~
21 ~~information that will promote good business practices. Such educational seminar~~
22 ~~requirement shall not include written or oral exams~~ a certificate, as required by the
23 commission pursuant to the provisions of R.S. 32:795, showing that the applicant has
24 completed an approved educational seminar.

25 ~~(ii) The educational seminar shall be designed to develop and present~~
26 ~~educational programs that enhance the knowledge and competence of used motor~~
27 ~~vehicle dealers, their salespersons, and service personnel for the benefit of the public.~~
28 ~~The commission may approve any nonprofit corporation organized for the purpose~~
29 ~~of representing licensees of this commission to administer the educational seminar~~
30 ~~program and may approve any for-profit corporation, association, or other entity that~~

1 is associated with the used car industry to conduct the seminar and certify
2 completion of the required attendance. However, the commission shall investigate
3 the qualifications of and shall have the authority to approve or deny approval of all
4 entities that desire to conduct an educational seminar for motor vehicle dealer
5 applicants and motor vehicle dealers.

6 (iii) ~~The commission shall approve a uniform document used to certify~~
7 ~~completion of the seminar and all materials used in conducting the seminar. The~~
8 ~~commission shall approve all fees charged for materials and attendance to the~~
9 ~~seminar.~~

10 (iv) ~~The commission shall promulgate rules to implement this educational~~
11 ~~seminar program.~~

12 * * *

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

14 * * *

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

19 * * *

20 (16) Violating any provision of this Chapter, any rule or regulation adopted
21 by the commission, or any provision of law not administered by the Louisiana Motor
22 Vehicle Commission, relating to ~~the proper disposition of certificates of title or~~
23 ~~permits to dismantle in connection with the purchase or sale of any used motor~~
24 ~~vehicle~~ a used motor vehicle transaction between a used motor vehicle dealer and a
25 consumer.

26 * * *

27 (19) Selling a used motor vehicle either with a waiver of warranties or "as
28 is" without completing and providing to the purchaser a buyers guide if required by
29 the Federal Trade Commission.

30 * * *

1 §795. Educational seminars; authority; initial license application seminar; renewal
2 application seminar; exceptions

3 A. The commission has authority to do all of the following:

4 (1) Require both initial applicants and licensees seeking a renewal of their
5 licenses, pursuant to R.S. 32:791, to attend educational seminars.

6 (2) Promulgate and adopt any rule for establishing educational seminar
7 curriculum, requiring certain materials to be used, employing any person, and
8 incurring any expense necessary to administer the seminars.

9 (3) Require seminar attendees to complete a test comprised of ten questions
10 approved by the commission and to obtain a minimum score of seventy percent in
11 order to receive credit for satisfactory completion of the seminar.

12 (4) Require that an initial license application seminar shall not exceed six
13 hours in length and require that a renewal application seminar shall not exceed four
14 hours in length.

15 (5) Approve and create a uniform certificate to be issued upon satisfactory
16 completion of an educational seminar.

17 B. Each initial license application shall be accompanied by a certificate
18 issued by the commission, as described in Subsection D of this Section, documenting
19 that a minimum of one owner, partner, officer, or local dealership manager of the
20 dealer applicant has completed an educational seminar. For each initial license
21 application seminar, the seminar shall include materials from the Department of
22 Public Safety and Corrections, office of motor vehicles, the Department of Revenue,
23 and any other information the commission deems necessary to educate attendees and
24 their employees regarding compliance with the law.

25 C. Each licensee seeking to renew his license shall certify that the owner,
26 partner, officer, or local dealership manager of the dealer has completed an
27 educational seminar prior to filing the renewal application with the commission.
28 Any renewal application and seminar certification shall be completed during the
29 license period.

1 D.(1) The commission may approve any educational institution, private
 2 vocational school, correspondence school, or trade association that meets its
 3 requirements to conduct educational seminars as required by this Section.

4 (2) Any educational institution, private vocational school, correspondence
 5 school, or trade association approved pursuant to Paragraph (1) of this Subsection
 6 shall be reapproved by the commission every two years.

7 (3) Any educational institution, private vocational school, correspondence
 8 school, or trade association administering an educational seminar shall issue the
 9 uniform certificate of completion approved by the commission as required by
 10 Subsection A of this Section upon an attendee's satisfactory completion of the
 11 seminar.

12 E. Failure to satisfactorily complete an educational seminar as required by
 13 this Section is considered a violation of this Part.

14 F. Notwithstanding any other provision of this Section, this Section shall not
 15 apply to any licensee who does not sell or rent used motor vehicles to consumers.

16 * * *

17 §801. Definition

18 As used in this Part only:

19 "Motor vehicle" means ~~every automobile, motor home, motorcycle,~~
 20 ~~all-terrain vehicle, recreational vehicle trailer, boat trailer, semitrailer, truck,~~
 21 ~~truck-tractor, and any other device which is self-propelled and drawn, in, upon, or~~
 22 ~~by which any person or property is or may be transported or drawn either upon or off~~
 23 ~~a public highway, except such as is moved by animal power, or is used exclusively~~
 24 ~~upon stationary rails or tracks, or is an implement of husbandry~~ any motor-driven
 25 vehicle required to be registered that was used, is used, or is designed to be used for
 26 the transporting of passengers or goods for public, private, commercial, or for-hire
 27 purposes.

28 Section 2. R.S. 32:783(F)(3) and 784(B) are hereby repealed in their entirety.

29 Section 3. This Act shall become effective upon signature by the governor or, if not
 30 signed by the governor, upon expiration of the time for bills to become law without signature

1 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
2 vetoed by the governor and subsequently approved by the legislature, this Act shall become
3 effective on the day following such approval.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____