

VIRGINIA ACTS OF ASSEMBLY -- 2022 SESSION

CHAPTER 574

An Act to amend the Code of Virginia by adding in Chapter 15 of Title 46.2 an article numbered 10, consisting of sections numbered 46.2-1583 through 46.2-1589, relating to independent dealer-operator recertification.

[H 316]

Approved April 11, 2022

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 15 of Title 46.2 an article numbered 10, consisting of sections numbered 46.2-1583 through 46.2-1589, as follows:

Article 10.

Independent Dealer-Operator Recertification.

§ 46.2-1583. Definitions.

As used in this article, unless the context requires a different meaning:

"Certificate of qualification" means a designation issued by the Board acknowledging that the individual has been certified by the Board as an independent dealer-operator pursuant to § 46.2-1511.

"Course" means a course of study leading to recertification for independent dealer-operators offered by correspondence, electronically, or in person.

"Course provider" or "provider" means any person or entity presenting or offering one or more recertification education courses.

"Exam" or "examination" means a test administered by the Board.

"Executive Director" means the Executive Director of the Board.

"Independent dealer-operator" means the individual who works at the established place of business of an independent motor vehicle dealer and who is responsible for and in charge of day-to-day operations of that place of business.

"Independent motor vehicle dealer" or "independent dealer" means a dealer in used motor vehicles that is not also licensed as a franchised motor vehicle dealer.

"Original application" means an application for an independent dealer-operator certificate of qualification from an applicant who has never been issued an independent dealer-operator certificate of qualification in Virginia or whose Virginia independent dealer-operator certificate of qualification has been expired for more than 60 days.

"Recertification" means completing the requirements of this article to recertify an independent dealer-operator certificate of qualification.

§ 46.2-1584. Recertification Notice.

A. The Board shall transmit a recertification notice to the home address, email address of record, or digitally to an independent dealer-operator at least 90 days prior to the expiration date of his certificate of qualification. Failure to receive a recertification notice does not absolve the independent dealer-operator from the recertification requirements.

B. Independent dealer-operators shall maintain the original copy of the proof of completion of a recertification course or exam for a period of five years.

C. Continuing education or a course required by a disciplinary order may not be used to satisfy recertification requirements.

§ 46.2-1585. Recertification schedule.

A. Independent dealer-operator certificates of qualification are valid for 24 months and shall expire on the last day of the twenty-fourth month. Certificates of qualification shall be deemed not to have expired if the recertification is completed within 60 days of the expiration date.

B. Independent dealer-operators may complete the recertification requirement up to six months prior to the expiration date of their certificate of qualification.

C. The Executive Director may for good cause grant an extension for the completion of the recertification requirements, provided that a written request from the independent dealer-operator is received by the Executive Director at least 15 days prior to the expiration date. Such extension shall not relieve the licensee of the recertification requirement.

D. Any application received from an applicant whose certificate has expired shall be considered an original application.

E. For independent dealer-operators who have served outside of the United States in the United States Armed Services, the certification shall be deemed not to have expired if the recertification requirement has been completed not more than 90 days from the date they are no longer serving outside of the United States in the United States Armed Services.

§ 46.2-1586. Recertification requirements.

A. To become recertified, an independent dealer-operator shall (i) complete one live instructor-led course certified by the Board with at least four hours of instruction and (ii) pass an examination that may be administered in person or virtually. Such course may be attended in person or virtually, provided that any virtual participation shall require the participant to view the instructor and be viewed by the instructor throughout the course. The Board shall ensure that any such course is available at least monthly.

B. The provisions of this section shall not apply to any independent dealer-operator who completes a training program approved by the Executive Director and administered by a dealer that employs at least 50 licensed salespersons in the Commonwealth. Any such training program shall not be subject to the requirements of §§ 46.2-1587 and 46.2-1588.

§ 46.2-1587. Course provider approval.

A. The Board may approve a course provider, provided that:

1. The course provider has submitted an application to the Board prior to offering the course;
2. The submitted application includes at a minimum the following information:
 - a. Name of provider;
 - b. Proposed course schedule, including locations (as applicable);
 - c. Charges to participants;
 - d. Description of the provider's course curriculum and objectives;
 - e. Credentials of faculty members;
 - f. Method of delivery;
 - g. Evaluation procedure;
 - h. Mechanism for recordkeeping; and
 - i. Any such information as the Board deems necessary to assure quality and compliance;
3. The course provider's course curriculum includes the following:
 - a. Ethical practice;
 - b. Recordkeeping;
 - c. Recent state and federal laws and regulations;
 - d. Review of relevant federal regulations;
 - e. Titling and registration requirements, including use of dealer-related license plates;
 - f. Offsite sales;
 - g. Financing;
 - h. Dealer practices;
 - i. Salespersons licenses; and
 - j. Advertising; and

4. A course containing content that promotes, sells, or offers goods, products, or services shall not be approved. However, the course provider may promote goods, products, or services at the conclusion of a course, provided that it is made clear to participants that the course has concluded and that attendance at any additional presentations is optional.

B. The Board shall notify the course provider within 60 days following the receipt of a completed application of approval or disapproval of a course.

C. The Board shall periodically review and monitor course providers and courses.

D. Any changes in the information previously provided about an approved course or course provider shall be submitted to the Board. The Board may withdraw its approval of the course provider or course for a failure to do so.

E. The Executive Director has the authority to suspend the approval of any course or course provider and the Board may withdraw approval for good cause.

§ 46.2-1588. Course provider responsibilities.

Approved course providers shall:

1. Provide to each participant who successfully completes the required recertification course a certificate providing, at a minimum, (i) the name of the provider, (ii) name of the participant, and (iii) the date of completion;
2. Maintain all records on courses and participants for a period of five years and make those records available to the Board upon request;
3. Enter the names of participants completing the course into a database as directed by the Board within five days of the participant's completion of the course; and
4. Collect the recertification application fee from applicants and transmit such fee to the Board as directed by the Board within 15 days of receiving the fee from the applicant.

§ 46.2-1589. Fees.

A. The recertification application fee shall be \$50 for taking the course and shall be paid directly to the course provider.

B. The fee for returned checks shall be \$35.

C. In addition to the recertification application fee, course providers may charge applicants a course fee of no more than \$300.

D. The recertification application fee for taking the exam shall be \$50 and shall be paid at the time

the exam is administered.