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HOUSE BILL NO. 986

Offered January 12, 2022

Prefiled January 12, 2022

A BILL to amend and reenact §§ 46.2-205, 46.2-1530, and 46.2-1530.1 of the Code of Virginia, relating to dealers; certain Department of Motor Vehicles transactions.

Patron—Runion

Committee Referral Pending

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-205, 46.2-1530, and 46.2-1530.1 of the Code of Virginia are amended and reenacted as follows:

§ 46.2-205. Department offices and agencies; transactions by dealers.

A. The Commissioner shall maintain his office in the Commonwealth at a location which he determines to be appropriate. He may appoint agents and maintain branch offices in the Commonwealth in whatever locations he determines to be necessary to carry out this title.

The personnel of each branch office and each agency shall be appointed by the Commissioner and shall be bonded in an amount fixed by the Commissioner. The person in charge of the branch office and each agency shall deposit daily in the local bank, or at such other intervals as may be designated by the Commissioner, to the account of the State Treasurer, all moneys collected, and shall submit daily to the Commissioner, or at such other intervals as may be designated by the Commissioner, a complete record of what each deposit is intended to cover. The Commissioner shall not be held liable in the event of the loss of any moneys collected by such agents resulting from their failure to deposit such money to the account of the State Treasurer.

The compensation of the personnel of each branch office and each agency is to be fixed by the Commissioner. The compensation fixed for each nonautomated agency for the purpose of maintaining adequate annual service to the public shall be three and one-half percent of the first \$500,000 of gross collections made by the agency, two percent of the next \$500,000 of gross collections made by the agency, and one percent of all gross collections in excess of \$1,000,000 made by the agency during each fiscal year.

The compensation fixed for each automated agency for the purpose of maintaining adequate annual service to the public shall be three and one-half percent of gross collections made by the agency during each fiscal year.

The compensation awarded shall belong to the agents for their services under this section, and the Commissioner shall cause to be paid all freight, cartage, premium on bond and postage, but not any extra clerk hire or other expenses occasioned by their duties.

B. The Commissioner may enter into an agreement with any Virginia-licensed motor vehicle dealer, recreational vehicle dealer, trailer dealer, or motorcycle dealer to act as an agent of the Commissioner as provided in subsection A. Motor vehicle dealers, recreational vehicle dealers, trailer dealers, and motorcycle dealers who act as agents of the Commissioner of the Department of Motor Vehicles as authorized in this subsection shall be compensated as provided in subsection A.

Any person completing a transaction for the issuance of a certificate of title for a motor vehicle or motorcycle, registration of a motor vehicle or motorcycle, or renewal of a motor vehicle or motorcycle registration with a licensed dealer pursuant to this subsection shall pay the same fee for such title, registration, or renewal as he would pay to conduct the transaction in a branch office of the Department. Such fee shall be collected by the dealer and transmitted to the Department. The dealer conducting the transaction shall be compensated by the Department at the same rate as a DMV Select partner would be compensated for processing such a transaction, and such transaction shall not be considered when calculating compensation as provided in subsection A.

§ 46.2-1530. Buyer's order.

A. Every motor vehicle dealer shall complete, in duplicate, a buyer's order for each sale or exchange of a motor vehicle. A copy of the buyer's order form shall be made available to a prospective buyer during the negotiating phase of a sale and prior to any sales agreement. The completed original shall be retained for a period of five years in accordance with § 46.2-1529, and a duplicate copy shall be delivered to the purchaser at the time of sale or exchange. A buyer's order shall include:

1. The name and address of the person to whom the vehicle was sold or traded.
2. The date of the sale or trade.
3. The name and address of the motor vehicle dealer selling or trading the vehicle.

- 59 4. The make, model year, vehicle identification number and body style of the vehicle.
60 5. The sale price of the vehicle.
61 6. The amount of any cash deposit made by the buyer.
62 7. A description of any vehicle used as a trade-in and the amount credited the buyer for the trade-in.
63 The description of the trade-in shall be the same as outlined in subdivision 4.
64 8. The amount of any sales and use tax, title fee, uninsured motor vehicle fee, registration fee,
65 purchaser's online systems filing fee, or other fee required by law for which the buyer is responsible and
66 the dealer has collected. Each tax and fee shall be individually listed and identified.
67 9. The net balance due at settlement.
68 10. Any item designated as "processing fee," and the amount charged by the dealer, if any, for
69 processing the transaction. As used in this section, processing includes obtaining title and license plates
70 for the purchaser; but does not include any "purchaser's online systems filing fee," as defined in
71 § 46.2-1530.1, or any "dealer's manual transaction fee," as defined in § 46.2-1530.2.
72 11. Any item designated as "dealer's business license tax," and the amount charged by the dealer, if
73 any.
74 12. If the dealer delivers to the customer a vehicle purchased by the customer on or after July 1,
75 2010, that is conditional on dealer-arranged financing, the following notice, printed in bold type no less
76 than 10 point: "IF YOU ARE FINANCING THIS VEHICLE, PLEASE READ THIS NOTICE: YOU
77 ARE PROPOSING TO ENTER INTO A RETAIL INSTALLMENT SALES CONTRACT WITH THE
78 DEALER. PART OF YOUR CONTRACT INVOLVES FINANCING THE PURCHASE OF YOUR
79 VEHICLE. IF YOU ARE FINANCING THIS VEHICLE AND THE DEALER INTENDS TO
80 TRANSFER YOUR FINANCING TO A FINANCE PROVIDER SUCH AS A BANK, CREDIT UNION
81 OR OTHER LENDER, YOUR VEHICLE PURCHASE DEPENDS ON THE FINANCE PROVIDER'S
82 APPROVAL OF YOUR PROPOSED RETAIL INSTALLMENT SALES CONTRACT. IF YOUR
83 RETAIL INSTALLMENT SALES CONTRACT IS APPROVED WITHOUT A CHANGE THAT
84 INCREASES THE COST OR RISK TO YOU OR THE DEALER, YOUR PURCHASE CANNOT BE
85 CANCELLED. IF YOUR RETAIL INSTALLMENT SALES CONTRACT IS NOT APPROVED, THE
86 DEALER WILL NOTIFY YOU VERBALLY OR IN WRITING. YOU CAN THEN DECIDE TO PAY
87 FOR THE VEHICLE IN SOME OTHER WAY OR YOU OR THE DEALER CAN CANCEL YOUR
88 PURCHASE. IF THE SALE IS CANCELLED, YOU NEED TO RETURN THE VEHICLE TO THE
89 DEALER WITHIN 24 HOURS OF VERBAL OR WRITTEN NOTICE IN THE SAME CONDITION
90 IT WAS GIVEN TO YOU, EXCEPT FOR NORMAL WEAR AND TEAR. ANY DOWN PAYMENT
91 OR TRADE-IN YOU GAVE THE DEALER WILL BE RETURNED TO YOU. IF YOU DO NOT
92 RETURN THE VEHICLE WITHIN 24 HOURS OF VERBAL OR WRITTEN NOTICE OF
93 CANCELLATION, THE DEALER MAY LOCATE THE VEHICLE AND TAKE IT BACK WITHOUT
94 FURTHER NOTICE TO YOU AS LONG AS THE DEALER FOLLOWS THE LAW AND DOES
95 NOT CAUSE A BREACH OF THE PEACE WHEN TAKING THE VEHICLE BACK. IF THE
96 DEALER DOES NOT RETURN YOUR DOWN PAYMENT AND ANY TRADE-IN WHEN THE
97 DEALER GETS THE VEHICLE BACK IN THE SAME CONDITION IT WAS GIVEN TO YOU,
98 EXCEPT FOR NORMAL WEAR AND TEAR, THE DEALER MAY BE LIABLE TO YOU UNDER
99 THE VIRGINIA CONSUMER PROTECTION ACT."
100 13. For sales of used motor vehicles, the disclosure required by § 46.2-1529.1.
101 Except for trailers and travel trailers, if the transaction does not include a policy of motor vehicle
102 liability insurance, the seller shall stamp or mark on the face of the bill of sale in boldface letters no
103 smaller than 18-point type the following words: "No Liability Insurance Included."
104 A completed buyer's order when signed by both buyer and seller may constitute a bill of sale.
105 B. The Board shall approve a buyer's order form and each dealer shall file with each original license
106 application its buyer's order form, on which the processing fee amount is stated.
107 C. If a processing fee is charged, that fact and the amount of the processing fee shall be disclosed by
108 the dealer. Disclosure shall be by placing a clear and conspicuous sign in the public sales area of the
109 dealership. The sign shall be no smaller than eight and one-half inches by 11 inches and the print shall
110 be no smaller than one-half inch, and in a form as approved by the Board.
111 D. Except for trailers, if the buyer's order is for a new motor vehicle that had accumulated, at the
112 time of the sale, mileage in excess of 750 miles as a demonstrator or as a result of delivery to a
113 prospective purchaser who never took title to the new motor vehicle and returned it, the vehicle may be
114 sold as new, provided the dealer delivers this disclosure in writing on the buyer's order containing type
115 of no smaller than 10 point or in a separate document containing only the disclosure in type of no
116 smaller than 14 point: "Notice: This new motor vehicle has accumulated mileage in excess of 750 miles
117 as the result of use as a demonstrator and/or as the result of delivery to a prior prospective purchaser
118 who never took title to it and who returned it." When delivered as a separate document, this disclosure
119 shall also contain the actual odometer reading for the vehicle and shall be signed by the purchaser.
120 E. The provisions of this section shall not apply to the sale or exchange of (i) a tractor truck, (ii) a

truck having a gross vehicle weight rating of 16,000 pounds or more, or (iii) a semitrailer.

§ 46.2-1530.1. Purchaser's on-line systems filing fee; collection and remittance.

Any dealer licensed under this chapter who uses a Department-approved system of remote electronic filing of documentation necessary to obtain a certificate of title or registration for the purchaser of a vehicle shall ~~collect from the purchaser and remit to the Department-approved electronic systems provider~~ *not collect* any fees charged for the transaction by the systems provider *from the purchaser of the vehicle*. Any such fee shall be listed separately on the buyer's order and identified as "on-line systems filing fee."

INTRODUCED

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