

VIRGINIA ACTS OF ASSEMBLY -- 2000 SESSION

CHAPTER 180

An Act to amend and reenact §§ 46.2-1508, 46.2-1508.1, 46.2-1519, 46.2-1527.1, 46.2-1531, 46.2-1908, 46.2-1919, 46.2-1931, 46.2-1992.6, 46.2-1992.17, 46.2-1992.24, 46.2-1993.6, 46.2-1993.17, and 46.2-1993.24 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 46.2-1908.1, 46.2-1992.6:1, and 46.2-1993.6:1, relating to motor vehicle dealers; T&M vehicle dealers; trailer dealers; motorcycle dealers; consignment of vehicles by certain nonprofit organizations; fees.

[H 1299]

Approved March 24, 2000

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-1508, 46.2-1508.1, 46.2-1519, 46.2-1527.1, 46.2-1531, 46.2-1908, 46.2-1919, 46.2-1931, 46.2-1992.6, 46.2-1992.17, 46.2-1992.24, 46.2-1993.6, 46.2-1993.17, and 46.2-1993.24 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 46.2-1908.1, 46.2-1992.6:1, and 46.2-1993.6:1 as follows:

§ 46.2-1508. Licenses required.

It shall be unlawful for any person to engage in business in the Commonwealth as a motor vehicle dealer or salesperson without first obtaining a license as provided in this chapter. It shall be unlawful for any person to engage in business in the Commonwealth as a manufacturer, factory branch, distributor, distributor branch, or factory or distributor representative without first obtaining a license as provided in Chapter 19 (§ 46.2-1900 et seq.) of this title. *Any nonprofit organization exempt from taxation under § 501 (c) (3) of the Internal Revenue Code, after having obtained a nonprofit organization certificate as provided in this chapter, may consign donated motor vehicles to licensed Virginia motor vehicle dealers.* Any person licensed in another state as a motor vehicle dealer may sell motor vehicles at wholesale auctions in the Commonwealth after having obtained a certificate of dealer registration as provided in Chapter 19 of this title. The offering or granting of a motor vehicle dealer franchise in the Commonwealth shall constitute engaging in business in the Commonwealth for purposes of this section, and no new motor vehicle may be sold or offered for sale in the Commonwealth unless the franchisor of motor vehicle dealer franchises for that line-make in the Commonwealth, whether such franchisor is a manufacturer, factory branch, distributor, distributor branch, or otherwise, is licensed under Chapter 19 of this title. In the event a license issued under Chapter 19 to a franchisor of motor vehicle dealer franchises is suspended, revoked, or not renewed, nothing in this section shall prevent the sale of any new motor vehicle of such franchisor's line-make manufactured in or brought into the Commonwealth for sale prior to the suspension, revocation or expiration of the license.

Violation of any provision of this section shall constitute a Class 1 misdemeanor.

§ 46.2-1508.1. Licensure of certain nonprofit organizations.

A. Any nonprofit organization exempt from taxation under § 501 (c) (3) of the Internal Revenue Code that (i) receives title to motor vehicles as qualified charitable gifts to the organization, (ii) provides no more than twelve of these donated vehicles in any twelve-month period to low-income persons, as defined in § 2.1-588, in need of transportation, and (iii) receives from the recipients of the vehicles only reimbursement for the costs of repairs, towing, titles, taxes, license fees and inspection fees shall be required to obtain a dealer's license. However, such nonprofit organization shall be exempt from the requirements of § 46.2-1510, Article 3.1 (§ 46.2-1527.1 et seq.) of Chapter 15 of this title, §§ 46.2-1533, and 46.2-1534. Transactions of such nonprofit organization shall not be subject to recovery from the Motor Vehicle Transaction Recovery Fund.

B. *Upon application to and approval by the Board, any nonprofit organization exempt from taxation under § 501 (c) (3) of the Internal Revenue Code may be issued a nonprofit organization certificate authorizing it to consign donated motor vehicles to licensed Virginia motor vehicle dealers when the nonprofit organization receives title to such motor vehicles as qualified charitable gifts and titles the vehicles in the name of the nonprofit organization.*

§ 46.2-1519. License and registration fees; additional to other licenses and fees required by law.

A. The fee for each license and registration year or part thereof shall be determined by the Board, subject to the following:

1. For motor vehicle dealers, not more than \$300 for each principal place of business, plus not more than \$40 for each supplemental license.

2. For motor vehicle salespersons, not more than \$50.

B. The licenses, registrations, and fees required by this chapter are in addition to licenses, taxes, and fees imposed by other provisions of law and nothing contained in this chapter shall exempt any person from any license, tax, or fee imposed by any other provision of law.

C. The fee for issuance to a nonprofit organization of a certificate pursuant to subsection B of § 46.2-1508.1 shall be \$25 per year or any part thereof.

D. No nonprofit organization granted a certificate pursuant to subsection B of § 46.2-1508.1 shall, either orally or in writing, assign a value to any donated vehicle for the purpose of establishing tax deduction amounts on any federal or state income tax return.

§ 46.2-1527.1. Motor Vehicle Transaction Recovery Fund established.

All fees in this article shall be deposited in the Motor Vehicle Transaction Recovery Fund, hereinafter referred to in this article as "the Fund." The Fund shall be a special fund in the state treasury to pay claims against the Fund and for no other purpose, except the Board may expend moneys from the interest earned on the Fund for the administration of this article, in accordance with the general appropriation act. The Fund shall be used to satisfy unpaid judgments, as provided for in § 46.2-1527.3. Any interest income shall accrue to the Fund. The Board shall maintain an accurate record of all transactions involving the Fund. The minimum balance of the Fund shall be \$250,000.

Every applicant renewing a motor vehicle dealer's license shall pay, in addition to other license fees, an annual Fund fee of \$100, and every applicant for a motor vehicle salesperson's license shall pay, in addition to other license fees, an annual Fund fee of ten dollars, prior to license issue. However, annual Fund renewal fees from salespersons shall not exceed \$100 per year from an individual dealer. These fees shall be deposited in the Motor Vehicle Transaction Recovery Fund.

Applicants for an original motor vehicle dealer's license shall pay an annual Fund fee of \$250 each year for three consecutive years. During this period, the \$250 Fund fee will take the place of the annual \$100 Fund fee.

In addition to the \$250 annual fee, applicants for an original dealer's license shall have a \$25,000 bond pursuant to § 46.2-1527.2 for three consecutive years. Only those renewing licensees who have not been the subject of a claim against their bond or against the Fund for three consecutive years shall pay the annual \$100 fee and will no longer be required to pay the \$250 annual fee or hold the \$25,000 bond.

In addition to other license fees, applicants for an original Certificate of Dealer Registration or its renewal shall pay a Fund fee of \$60.

The Board may suspend or reinstate collection of Fund fees.

The provisions of this section shall not apply to manufactured home dealers as defined in § 36-85.16, T&M vehicle dealers as defined in § 46.2-1900, trailer dealers as defined in § 46.2-1992, and motorcycle dealers as defined in § 46.2-1993, and nonprofit organizations issued certificates pursuant to subsection B of § 46.2-1508.1.

§ 46.2-1531. Consignment vehicles; contract.

Any motor vehicle dealer offering a vehicle for sale on consignment shall have in his possession a consignment contract for the vehicle, executed and signed by the dealer and the consignor. The consignment contract shall include:

1. The complete name, address, and the telephone number of the owners.
2. The name, address, and dealer certificate number of the selling dealer.
3. A complete description of the vehicle on consignment, including the make, model year, vehicle identification number, and body style.
4. The beginning and termination dates of the contract.
5. The percentage of commission, the amount of the commission, or the net amount the owner is to receive, if the vehicle is sold.
6. Any fees for which the owner is responsible.
7. A disclosure of all unsatisfied liens on the vehicle and the location of the certificate of title to the vehicle.
8. A requirement that the motor vehicle pass a safety inspection prior to sale.

If any motor vehicle on consignment from a certified nonprofit organization is found not to be in compliance with any safety inspection requirement, the dealer shall furnish any buyer intending to use that vehicle on the public highways a written disclosure, prior to sale, that the vehicle did not pass a safety inspection.

Any dealer offering a vehicle for sale on consignment shall inform any prospective customer that the vehicle is on consignment.

Dealer license plates shall not be used to demonstrate a vehicle on consignment except on (i) motor vehicles with gross vehicle weight of 15,000 pounds or more and, (ii) vehicles on consignment from another licensed motor vehicle dealer, and (iii) vehicles on consignment from a nonprofit organization certified pursuant to subsection B of § 46.2-1508.1. The owner's license plates may be used if liability insurance coverage is in effect in the amounts prescribed by § 46.2-472.

§ 46.2-1908. Licenses required.

It shall be unlawful for any person to engage in business in the Commonwealth as a T&M vehicle dealer, salesperson, manufacturer, factory branch, distributor, distributor branch, or factory or distributor representative or as a motor vehicle manufacturer, factory branch, distributor, distributor branch, or factory or distributor representative as defined in § 46.2-1500, without first obtaining a license as

provided in this chapter. Every person licensed as a manufactured home dealer under Chapter 4.2 (§ 36-85.16 et seq.) of Title 36 shall obtain a certificate of dealer registration as provided in this chapter. Any person licensed in another state as a motor vehicle dealer or T&M vehicle dealer may sell motor vehicles or T&M vehicles at wholesale auctions in the Commonwealth after having obtained a certificate of dealer registration as provided in this chapter. *Any nonprofit organization exempt from taxation under § 501 (c) (3) of the Internal Revenue Code, after having obtained a nonprofit organization certificate as provided in this chapter, may consign donated T&M vehicles to licensed Virginia T&M vehicle dealers.* The offering or granting of a T&M vehicle dealer franchise in the Commonwealth shall constitute engaging in business in the Commonwealth for purposes of this section, and no new T&M vehicle may be sold or offered for sale in the Commonwealth unless the franchisor of T&M vehicle dealer franchises for that line-make in the Commonwealth, whether such franchisor is a manufacturer, factory branch, distributor, distributor branch, or otherwise, is licensed under this chapter. In the event a license issued under this chapter to a franchisor of T&M vehicle dealer franchises is suspended, revoked, or not renewed, nothing in this section shall prevent the sale of any new T&M vehicle of such franchisor's line-make manufactured in or brought into the Commonwealth for sale prior to the suspension, revocation or expiration of the license.

Violation of any provision of this section shall constitute a Class 1 misdemeanor.

§ 46.2-1908.1. *Certification of certain nonprofit organizations.*

Upon application to and approval by the Department, any nonprofit organization exempt from taxation under § 501 (c) (3) of the Internal Revenue Code may be issued a nonprofit organization certificate authorizing it to consign donated T&M vehicles to licensed Virginia T&M vehicle dealers when the nonprofit organization receives title to such T&M vehicles as qualified charitable gifts and titles the T&M vehicles in the name of the nonprofit organization.

§ 46.2-1919. License and registration fees; additional to other licenses and fees required by law.

A. The fee for each license and registration year or part thereof shall be as follows:

1. For T&M vehicle dealers, \$100 for each principal place of business, plus \$20 for each supplemental license.
2. For T&M and motor vehicle manufacturers, distributors, and each factory branch and distributor branch, \$100.
3. For T&M and motor vehicle rebuilder salespersons, factory representatives, and distributor representatives, \$10.
4. For motor vehicle dealers and T&M vehicle dealers licensed in other states, but not in Virginia, a registration fee of \$50.
5. For manufactured home dealers, a registration fee of \$50.

B. The licenses, registrations, and fees required by this chapter are in addition to licenses, taxes, and fees imposed by other provisions of law and nothing contained in this chapter shall exempt any person from any license, tax, or fee imposed by any other provision of law. However, the Commissioner may waive fees for those licensed under Chapter 15, 19.1, or 19.2 of this title; *the Commissioner shall waive the fee for nonprofit organizations certified under Chapter 15, 19.1, or 19.2 of this title.*

C. *The fee for any nonprofit organization issued a certificate pursuant to § 46.2-1908.1 shall be \$25 per year or any part thereof.*

D. *No nonprofit organization granted a certificate pursuant to § 46.2-1908.1 shall, either orally or in writing, assign a value to any donated vehicle for the purpose of establishing tax deduction amounts on any federal or state income tax return.*

§ 46.2-1931. Consignment vehicles; contract.

Any T&M vehicle dealer offering a T&M vehicle for sale on consignment shall have in his possession a consignment contract for the T&M vehicle, executed and signed by the dealer and the consignor. The consignment contract shall include:

1. The complete name, address, and the telephone number of the owners.
2. The name, address, and dealer certificate number of the selling dealer.
3. A complete description of the T&M vehicle on consignment, including the make, model year, vehicle identification number, and body style.
4. The beginning and termination dates of the contract.
5. The percentage of commission, the amount of the commission, or the net amount the owner is to receive, if the T&M vehicle is sold.
6. Any fees for which the owner is responsible.
7. A disclosure of all unsatisfied liens on the T&M vehicle and the location of the certificate of title to the T&M vehicle.
8. A requirement that the T&M vehicle pass a safety inspection prior to sale.

If any T&M vehicle on consignment from a certified nonprofit organization is found not to be in compliance with any safety inspection requirement, the T&M dealer shall furnish any buyer intending to use that T&M vehicle on the public highways a written disclosure, prior to sale, that the T&M vehicle did not pass a safety inspection.

Any dealer offering a T&M vehicle for sale on consignment shall inform any prospective customer

that the T&M vehicle is on consignment.

Dealer license plates shall not be used to demonstrate a T&M vehicle on consignment except on (i) T&M vehicles with gross vehicle weight of 15,000 pounds or more ~~and~~, (ii) T&M vehicles on consignment from another licensed T&M vehicle dealer, *and (iii) T&M vehicles on consignment from a nonprofit organization certified pursuant to § 46.2-1908.1.* The owner's license plates may be used if liability insurance coverage is in effect in the amounts prescribed by § 46.2-472. No vehicles other than T&M vehicles shall be sold on consignment by T&M vehicle dealers.

§ 46.2-1992.6. Licenses required.

It shall be unlawful for any person to engage in business in the Commonwealth as a trailer dealer, salesperson, manufacturer, factory branch, distributor, distributor branch, or factory or distributor representative, without first obtaining a license as provided in this chapter. Every person licensed as a watercraft dealer under Chapter 8 (§ 29.1-800 et seq.) of Title 29.1 and who offers for sale watercraft trailers, shall obtain a certificate of dealer registration as provided in this chapter, but shall not be required to obtain a dealer license unless he also sells other types of trailers. Any person licensed in another state as a trailer dealer may sell trailers at wholesale auctions in the Commonwealth after having obtained a certificate of dealer registration as provided in this chapter. *Any nonprofit organization exempt from taxation under § 501 (c) (3) of the Internal Revenue Code, after having obtained a nonprofit organization certificate as provided in this chapter, may consign donated trailers to licensed Virginia trailer dealers.* The offering or granting of a trailer dealer franchise in the Commonwealth shall constitute engaging in business in the Commonwealth for purposes of this section, and no new trailer may be sold or offered for sale in the Commonwealth unless the franchisor of trailer dealer franchises for that line-make in the Commonwealth, whether such franchisor is a manufacturer, factory branch, distributor, distributor branch, or otherwise, is licensed under this chapter. In the event a license issued under this chapter to a franchisor of trailer dealer franchises is suspended, revoked, or not renewed, nothing in this section shall prevent the sale of any new trailer of such franchisor's line-make manufactured in or brought into the Commonwealth for sale prior to the suspension, revocation or expiration of the license.

Violation of any provision of this section shall constitute a Class 1 misdemeanor.

§ 46.2-1992.6:1. *Certification of certain nonprofit organizations.*

Upon application to and approval by the Department, any nonprofit organization exempt from taxation under § 501 (c) (3) of the Internal Revenue Code may be issued a nonprofit organization certificate authorizing it to consign donated trailers to licensed Virginia trailer dealers when the nonprofit organization receives title to such trailers as qualified charitable gifts and titles the trailers in the name of the nonprofit organization.

§ 46.2-1992.17. License and registration fees; additional to other licenses and fees required by law.

A. The fee for each license and registration year or part thereof shall be as follows:

1. For trailer dealers, \$100 for each principal place of business, plus \$20 for each supplemental license.
2. For each trailer manufacturer, distributor, factory branch and distributor branch, \$100.
3. For trailer rebuilder salespersons, factory representatives, and distributor representatives, \$10.
4. For trailer dealers licensed in other states, but not in Virginia, and for watercraft trailer dealers, a registration fee of \$50.

B. The licenses, registrations, and fees required by this chapter are in addition to licenses, taxes, and fees imposed by other provisions of law and nothing contained in this chapter shall exempt any person from any license, tax, or fee imposed by any other provision of law. However, the Commissioner may waive fees for those licensed under Chapter 15, 19, or 19.2 of this title; *the Commissioner shall waive the fee for nonprofit organizations certified under Chapter 15, 19, or 19.2 of this title.*

C. *The fee for any nonprofit organization issued a certificate pursuant to § 46.2-1992.6:1 shall be \$25 per year or any part thereof.*

D. *No nonprofit organization granted a certificate pursuant to § 46.2-1992.6:1 shall, either orally or in writing, assign a value to any donated vehicle for the purpose of establishing tax deduction amounts on any federal or state income tax return.*

§ 46.2-1992.24. Consignment trailers; contract.

Any trailer dealer offering a trailer for sale on consignment shall have in his possession a consignment contract for the trailer, executed and signed by the dealer and the consignor. The consignment contract shall include:

1. The complete name, address, and the telephone number of the owners.
2. The name, address, and dealer certificate number of the selling dealer.
3. A complete description of the trailer on consignment, including the make and model year.
4. The beginning and termination dates of the contract.
5. The percentage of commission, the amount of the commission, or the net amount the owner is to receive, if the trailer is sold.
6. Any fees for which the owner is responsible.
7. A disclosure of all unsatisfied liens on the trailer and the location of the certificate of title to the

trailer.

8. A requirement that the trailer pass a safety inspection prior to sale, if periodic safety inspections of the trailer are required under Article 21 (§ 46.2-1157) of Chapter 10 of this title.

If any trailer on consignment from a certified nonprofit organization is found not to be in compliance with any safety inspection requirement, the trailer dealer shall furnish any buyer intending to use that trailer on the public highways a written disclosure, prior to sale, that the trailer did not pass a safety inspection.

Any dealer offering a trailer for sale on consignment shall inform any prospective customer that the trailer is on consignment.

Dealer license plates shall not be used to demonstrate a trailer on consignment except on (i) trailers with gross vehicle weight of 15,000 pounds or more ~~and~~, (ii) trailers on consignment from another licensed trailer dealer, and (iii) *trailers on consignment from nonprofit organizations certified pursuant to § 46.2-1992.6:1*. No vehicles other than trailers shall be sold on consignment by trailer dealers.

The provisions of this section shall also apply to watercraft trailers and watercraft trailer dealers.

§ 46.2-1993.6. Licenses required.

It shall be unlawful for any person to engage in business in the Commonwealth as a motorcycle dealer, salesperson, manufacturer, factory branch, distributor, distributor branch, or factory or distributor representative, without first obtaining a license as provided in this chapter. Any person licensed in another state as a motorcycle dealer may sell motorcycles at wholesale auctions in the Commonwealth after having obtained a certificate of dealer registration as provided in Chapter 19 (§ 46.2-1900 et seq.) of this title ~~46.2~~. *Any nonprofit organization exempt from taxation under § 501 (c) (3) of the Internal Revenue Code, after having obtained a nonprofit organization certificate as provided in this chapter, may consign donated motorcycles to licensed Virginia motorcycle dealers.* The offering or granting of a motorcycle dealer franchise in the Commonwealth shall constitute engaging in business in the Commonwealth for purposes of this section, and no new motorcycle may be sold or offered for sale in the Commonwealth unless the franchisor of motorcycle dealer franchises for that line-make in the Commonwealth, whether such franchisor is a manufacturer, factory branch, distributor, distributor branch, or otherwise, is licensed under this chapter. In the event a license issued under this chapter to a franchisor of motorcycle dealer franchises is suspended, revoked, or not renewed, nothing in this section shall prevent the sale of any new motorcycle of such franchisor's line-make manufactured in or brought into the Commonwealth for sale prior to the suspension, revocation or expiration of the license.

Violation of any provision of this section shall constitute a Class 1 misdemeanor.

§ 46.2-1993.6:1. *Certification of certain nonprofit organizations.*

Upon application to and approval by the Board, any nonprofit organization exempt from taxation under § 501 (c) (3) of the Internal Revenue Code may be issued a nonprofit organization certificate authorizing it to consign donated motorcycles to licensed Virginia motorcycle dealers when the nonprofit organization receives title to such motorcycles as qualified charitable gifts and titles the motorcycles in the name of the nonprofit organization.

§ 46.2-1993.17. License and registration fees; additional to other licenses and fees required by law.

A. The fee for each license and registration year or part thereof shall be as follows:

1. For motorcycle dealers, \$100 for each principal place of business, plus \$20 for each supplemental license.

2. For each motorcycle manufacturer, distributor, factory branch, and distributor branch, \$100.

3. For motorcycle rebuilder salespersons, factory representatives, and distributor representatives, \$10.

4. For motorcycle dealers licensed in other states, but not in Virginia, a registration fee of \$50.

B. The licenses, registrations, and fees required by this chapter are in addition to licenses, taxes, and fees imposed by other provisions of law and nothing contained in this chapter shall exempt any person from any license, tax, or fee imposed by any other provision of law. However, the Commissioner may waive fees for those licensed under Chapter 15, 19, or 19.1 of this title; *the Commissioner shall waive the fee for nonprofit organizations certified under Chapter 15, 19, or 19.2 of this title.*

C. *The fee for any nonprofit organization issued a certificate pursuant to § 46.2-1992.6:1 shall be \$25 per year or any part thereof.*

D. *No nonprofit organization granted a certificate pursuant to subsection B of § 46.2-1993.6:1 shall, either orally or in writing, assign a value to any donated vehicle for the purpose of establishing tax deduction amounts on any federal or state income tax return.*

§ 46.2-1993.24. Consignment motorcycles; contract.

Any motorcycle dealer offering a motorcycle for sale on consignment shall have in his possession a consignment contract for the motorcycle, executed and signed by the dealer and the consignor. The consignment contract shall include:

1. The complete name, address, and the telephone number of the owners.

2. The name, address, and dealer certificate number of the selling dealer.

3. A complete description of the motorcycle on consignment, including the make, model year, vehicle identification number, and body style.

4. The beginning and termination dates of the contract.

5. The percentage of commission, the amount of the commission, or the net amount the owner is to receive, if the motorcycle is sold.

6. Any fees for which the owner is responsible.

7. A disclosure of all unsatisfied liens on the motorcycle and the location of the certificate of title to the motorcycle.

8. A requirement that the motorcycle pass a safety inspection prior to sale.

If any motorcycle on consignment from a certified nonprofit organization is found not to be in compliance with any safety inspection requirement, the motorcycle dealer shall furnish any buyer intending to use that motorcycle on the public highways a written disclosure, prior to sale, that the motorcycle did not pass a safety inspection.

Any dealer offering a motorcycle for sale on consignment shall inform any prospective customer that the motorcycle is on consignment.

Dealer license plates shall not be used to demonstrate a motorcycle on consignment except (i) motorcycles on consignment from another licensed motorcycle dealer and (ii) motorcycles on consignment from nonprofit organizations certified pursuant to § 46.2-1993.6:1. The owner's license plates may be used if liability insurance coverage is in effect in the amounts prescribed by § 46.2-472. No vehicles other than motorcycles shall be sold on consignment by motorcycle dealers.