

VIRGINIA ACTS OF ASSEMBLY -- 2009 SESSION

CHAPTER 60

An Act to amend and reenact §§ 46.2-1930, 46.2-1992.23, and 46.2-1993.23 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 46.2-1930.1, 46.2-1930.2, 46.2-1992.23:1, 46.2-1992.23:2, 46.2-1993.23:1, and 46.2-1993.23:2, relating to T&M vehicle dealers, trailer dealers, and motorcycle dealers; buyer's orders; purchaser's on-line filing fees; and dealer's manual transaction fees.

[H 1706]

Approved February 25, 2009

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-1930, 46.2-1992.23, and 46.2-1993.23 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 46.2-1930.1, 46.2-1930.2, 46.2-1992.23:1, 46.2-1992.23:2, 46.2-1993.23:1, and 46.2-1993.23:2 as follows:

§ 46.2-1930. Buyer's order.

A. Every T&M vehicle dealer shall complete, in duplicate, a buyer's order for each sale or exchange of a 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 four years in accordance with § 46.2-1929, 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 T&M vehicle dealer selling or trading the vehicle.
4. The make, model year, vehicle identification number and body style of the vehicle.
5. The sale price of the vehicle.
6. The amount of any cash deposit made by the buyer.
7. A description of any vehicle used as a trade-in and the amount credited the buyer for the trade-in.

The description of the trade-in shall be the same as outlined in subdivision 4 of this subsection.

8. The amount of any sales and use tax, title fee, uninsured vehicle fee, registration fee, or other fee required by law for which the buyer is responsible and the dealer has collected. Each tax and fee shall be individually listed and identified.

9. The net balance due at settlement.

10. Any item designated as "processing fee," and the amount charged by the dealer, if any, for processing the transaction. As used in this section processing includes obtaining title and license plates for the purchaser, *but shall not include any "purchaser's on-line systems filing fee" as described in § 46.2-1930.1 or any "dealer's manual transaction fee" as defined in § 46.2-1930.2.*

11. Any item designated as "dealer's business license tax," and the amount charged by the dealer, if any.

12. For sales involving dealer-arranged financing, the following notice, printed in bold type no less than ten-point: "THIS SALE IS CONDITIONED UPON APPROVAL OF YOUR PROPOSED RETAIL INSTALLMENT SALE CONTRACT AS SUBMITTED TO OR THROUGH THE DEALER. IF THAT PROPOSED RETAIL INSTALLMENT SALE CONTRACT IS NOT APPROVED UNDER THE TERMS AGREED TO WITH THE DEALER, YOU MAY CANCEL THIS SALE AND ANY DOWN PAYMENT AND/OR TRADE-IN YOU SUBMITTED WILL BE RETURNED TO YOU, PROVIDED THAT ANY VEHICLE DELIVERED TO YOU BY THE DEALER PURSUANT TO THIS AGREEMENT IS RETURNED TO THE DEALER IN THE SAME CONDITION AS DELIVERED TO YOU, NORMAL WEAR AND TEAR EXCEPTED, WITHIN TWENTY-FOUR HOURS OF WRITTEN OR ORAL NOTICE TO YOU OF THE CREDIT DENIAL."

If the transaction does not include a policy of liability insurance, the seller shall stamp or mark on the face of the bill of sale in boldface letters no smaller than eighteen point type the following words: "No Liability Insurance Included."

A completed buyer's order when signed by both buyer and seller may constitute a bill of sale.

B. The Commissioner shall approve a buyer's order form and each dealer shall file with each original license application its buyer's order form, on which the processing fee amount is stated.

C. If a processing fee is charged, that fact and the amount of the processing fee shall be disclosed by the dealer. Disclosure shall be by placing a clear and conspicuous sign in the public sales area of the dealership. The sign shall be no smaller than eight and one-half inches by eleven inches and the print shall be no smaller than one-half inch, and in a form as approved by the Commissioner.

§ 46.2-1930.1. *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 any fees charged for the transaction by the systems provider. Any such fee shall be listed separately on the buyer's order and identified as an "on-line systems filing fee."

§ 46.2-1930.2. Dealer's manual transaction fee; use in special fund.

Any dealer licensed under this chapter shall pay to the Department a fee of \$15 for each manual transaction in excess of 20 transactions per month. For purposes of this section, a "manual transaction" shall be any transaction that is not conducted electronically or at a location run by an agent authorized to act on behalf of the Department pursuant to subsection B of § 46.2-205. Such fee shall be in addition to any fees charged by the Department pursuant to this title for the processing of an application for a new certificate of title or registration of a vehicle. The dealer's manual transaction fee authorized by this section shall not apply to any transaction for which there is no Department-approved remote electronic filing option available. Any dealer who has been charged a dealer's manual transaction fee shall not collect such transaction fee from the purchaser of the vehicle. All fees collected under the provisions of this section shall be paid into the state treasury and set aside as a special fund to meet the expenses of the Department.

§ 46.2-1992.23. Buyer's order.

A. Every trailer dealer shall complete, in duplicate, a buyer's order for each sale or exchange of a 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 four years in accordance with § 46.2-1992.22, 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 trailer dealer selling or trading the vehicle.
4. The make, model year, vehicle identification number and body style of the vehicle.
5. The sale price of the vehicle.
6. The amount of any cash deposit made by the buyer.

7. A description of any vehicle used as a trade-in and the amount credited the buyer for the trade-in. The description of the trade-in shall be the same as outlined in subdivision 4 of this subsection.

8. The amount of any sales and use tax, title fee, uninsured motor vehicle fee, registration fee, or other fee required by law for which the buyer is responsible and the dealer has collected. Each tax and fee shall be individually listed and identified.

9. The net balance due at settlement.

10. Any item designated as "processing fee," and the amount charged by the dealer, if any, for processing the transaction. As used in this section processing includes obtaining title and license plates for the purchaser, *but shall not include any "purchaser's on-line systems filing fee" as defined in § 46.2-1992.23:1 or any "dealer's manual transaction fee" as defined in § 46.2-1992.23:2.*

11. Any item designated as "dealer's business license tax," and the amount charged by the dealer, if any.

12. For sales involving dealer-arranged financing, the following notice, printed in bold type no less than ten-point: "THIS SALE IS CONDITIONED UPON APPROVAL OF YOUR PROPOSED RETAIL INSTALLMENT SALE CONTRACT AS SUBMITTED TO OR THROUGH THE DEALER. IF THAT PROPOSED RETAIL INSTALLMENT SALE CONTRACT IS NOT APPROVED UNDER THE TERMS AGREED TO WITH THE DEALER, YOU MAY CANCEL THIS SALE AND ANY DOWN PAYMENT AND/OR TRADE-IN YOU SUBMITTED WILL BE RETURNED TO YOU, PROVIDED THAT ANY VEHICLE DELIVERED TO YOU BY THE DEALER PURSUANT TO THIS AGREEMENT IS RETURNED TO THE DEALER IN THE SAME CONDITION AS DELIVERED TO YOU, NORMAL WEAR AND TEAR EXCEPTED, WITHIN TWENTY-FOUR HOURS OF WRITTEN OR ORAL NOTICE TO YOU OF THE CREDIT DENIAL."

A completed buyer's order when signed by both buyer and seller may constitute a bill of sale.

B. The Commissioner shall approve a buyer's order form and each dealer shall file with each original license application its buyer's order form, on which the processing fee amount is stated.

C. If a processing fee is charged, that fact and the amount of the processing fee shall be disclosed by the dealer. Disclosure shall be by placing a clear and conspicuous sign in the public sales area of the dealership. The sign shall be no smaller than eight and one-half inches by eleven inches and the print shall be no smaller than one-half inch, and in a form as approved by the Commissioner.

§ 46.2-1992.23:1. 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 any fees charged for the transaction by the systems provider. Any such fee shall be listed separately on the buyer's order and identified as an "on-line systems filing fee."

§ 46.2-1992.23:2. Dealer's manual transaction fee; use in special fund.

Any dealer licensed under this chapter shall pay to the Department a fee of \$15 for each manual transaction in excess of 20 transactions per month. For purposes of this section, a "manual transaction" shall be any transaction that is not conducted electronically or at a location run by an agent authorized to act on behalf of the Department pursuant to subsection B of § 46.2-205. Such fee shall be in addition to any fees charged by the Department pursuant to this title for the processing of an application for a new certificate of title or registration of a vehicle. The dealer's manual transaction fee authorized by this section shall not apply to any transaction for which there is no Department-approved remote electronic filing option available. Any dealer who has been charged a dealer's manual transaction fee shall not collect such transaction fee from the purchaser of the vehicle. All fees collected under the provisions of this section shall be paid into the state treasury and set aside as a special fund to meet the expenses of the Department.

§ 46.2-1993.23. Buyer's order.

A. Every motorcycle dealer shall complete, in duplicate, a buyer's order for each sale or exchange of a 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 four years in accordance with § 46.2-1993.22, 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 motorcycle dealer selling or trading the vehicle.
4. The make, model year, and vehicle identification number.
5. The sale price of the vehicle.
6. The amount of any cash deposit made by the buyer.
7. A description of any vehicle used as a trade-in and the amount credited the buyer for the trade-in. The description of the trade-in shall be the same as outlined in subdivision 4 of this subsection.
8. The amount of any sales and use tax, title fee, uninsured motor vehicle fee, registration fee, or other fee required by law for which the buyer is responsible and the dealer has collected. Each tax and fee shall be individually listed and identified.
9. The net balance due at settlement.
10. Any item designated as "processing fee," and the amount charged by the dealer, if any, for processing the transaction. As used in this section processing includes obtaining title and license plates for the purchaser, *but shall not include any "purchaser's on-line systems filing fee" as defined in § 46.2-1993.23:1 or any "dealer's manual transaction fee" as defined in § 46.2-1993.23:2.*
11. Any item designated as "dealer's business license tax," and the amount charged by the dealer, if any.
12. For sales involving dealer-arranged financing, the following notice, printed in bold type no less than ten-point: "THIS SALE IS CONDITIONED UPON APPROVAL OF YOUR PROPOSED RETAIL INSTALLMENT SALE CONTRACT AS SUBMITTED TO OR THROUGH THE DEALER. IF THAT PROPOSED RETAIL INSTALLMENT SALE CONTRACT IS NOT APPROVED UNDER THE TERMS AGREED TO WITH THE DEALER, YOU MAY CANCEL THIS SALE AND ANY DOWN PAYMENT AND/OR TRADE-IN YOU SUBMITTED WILL BE RETURNED TO YOU, PROVIDED THAT ANY VEHICLE DELIVERED TO YOU BY THE DEALER PURSUANT TO THIS AGREEMENT IS RETURNED TO THE DEALER IN THE SAME CONDITION AS DELIVERED TO YOU, NORMAL WEAR AND TEAR EXCEPTED, WITHIN TWENTY-FOUR HOURS OF WRITTEN OR ORAL NOTICE TO YOU OF THE CREDIT DENIAL."

If the transaction does not include a policy of liability insurance, the seller shall stamp or mark on the face of the bill of sale in boldface letters no smaller than eighteen point type the following words: "No Liability Insurance Included."

A completed buyer's order when signed by both buyer and seller may constitute a bill of sale.

B. The Commissioner shall approve a buyer's order form and each dealer shall file with each original license application its buyer's order form, on which the processing fee amount is stated.

C. If a processing fee is charged, that fact and the amount of the processing fee shall be disclosed by the dealer. Disclosure shall be by placing a clear and conspicuous sign in the public sales area of the dealership. The sign shall be no smaller than eight and one-half inches by eleven inches and the print shall be no smaller than one-half inch, and in a form as approved by the Commissioner.

§ 46.2-1993.23:1. 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 any fees charged for the transaction by the systems provider. Any such fee shall be listed separately on the buyer's order and identified as an "on-line systems filing fee."

§ 46.2-1993.23:2. Dealer's manual transaction fee; use in special fund.

Any dealer licensed under this chapter shall pay to the Department a fee of \$15 for each manual transaction in excess of 20 transactions per month. For purposes of this section, a "manual transaction"

shall be any transaction that is not conducted electronically or at a location run by an agent authorized to act on behalf of the Department pursuant to subsection B of § 46.2-205. Such fee shall be in addition to any fees charged by the Department pursuant to this title for the processing of an application for a new certificate of title or registration of a vehicle. The dealer's manual transaction fee authorized by this section shall not apply to any transaction for which there is no Department-approved remote electronic filing option available. Any dealer who has been charged a dealer's manual transaction fee shall not collect such transaction fee from the purchaser of the vehicle. All fees collected under the provisions of this section shall be paid into the state treasury and set aside as a special fund to meet the expenses of the Department.