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HOUSE BILL NO. 1687

Offered January 14, 2009

Prefiled December 30, 2008

A BILL to amend and reenact § 46.2-1542 of the Code of Virginia, relating to taking possession of motor vehicles by motor vehicle dealers.

 Patron—Cosgrove

 Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:**1. That § 46.2-1542 of the Code of Virginia is amended and reenacted as follows:**

§ 46.2-1542. Temporary registration.

A. Notwithstanding §§ 46.2-617 and 46.2-628, whenever a dealer licensed by the Board sells or conditionally sells and delivers to a purchaser a motor vehicle, the dealer may issue temporary license plates and a certificate of temporary registration. The temporary license plates and the certificates for temporary registration shall be obtained from the Commissioner or may be printed according to terms set by the Commissioner and may be issued if (i) the dealer has the title or the certificate of origin for the vehicle or (ii) is unable at the time of the sale to deliver to the purchaser the certificate of title or certificate of origin for the vehicle because the certificate of title or certificate of origin is lost or is being detained by another in possession or for any other reason beyond the dealer's control. The temporary registration certificate shall bear its date of issuance, the name and address of the purchaser, the identification number of the vehicle, the registration number to be used temporarily on the vehicle, the name of the state in which the vehicle is to be registered, the name and address of the person from whom the dealer acquired the vehicle, and whatever other information may be required by the Commissioner. A copy of the temporary registration certificate and a bona fide buyer's order shall be delivered to the purchaser and shall be in the possession of the purchaser at all times when operating the vehicle. One copy of the certificate shall be retained by the dealer, which copy may be retained in electronic format under terms set by the Commissioner, and shall be subject to inspection at any time by the Department's agents. The original of the certificate shall be forwarded by the dealer to the Department directly on issuance to the purchaser if the vehicle is to be titled outside the Commonwealth, along with the physical or electronic application for title. The issuance of a temporary certificate of registration to a purchaser pursuant to this section shall have the effect of vesting sufficient interest in the vehicle in the purchaser for the period that the certificate remains effective for purposes of allowing the purchaser (a) to obtain and provide insurance coverage for the vehicle, including but not limited to insurance indemnifying the purchaser against liability or providing for recovery for damage to or loss of the vehicle and (b) to operate the vehicle as if the purchaser had full rights of ownership, all subject to cancellation by applicable law or agreement between the dealer and the purchaser prior to the time the dealer submits an application for title along with all required fees. *If a dealer exercises his statutory or contractual rights to cancel a purchaser's contract to buy a vehicle before title to the vehicle has been issued in the name of the purchaser, the dealer shall have the right to immediate possession of the vehicle without claim of possession by the purchaser and without regard to the provisions of Title 8.9A.*

B. A temporary certificate of registration issued by a dealer to a purchaser pursuant to this section shall expire when the certificate of title to the vehicle is issued by the Department in the name of the purchaser and the permanent license plates have been affixed to the vehicle, but in no event shall any temporary certificate of registration issued under this section be effective for more than thirty days from the date of its issuance. In the event that the dealer fails to produce the old certificate of title or certificate of origin to the vehicle or fails to apply for a replacement certificate of title pursuant to § 46.2-632, thereby preventing delivery to the Department or purchaser before the expiration of the temporary certificate of registration, the purchaser's temporary rights may terminate and the purchaser shall have the right to return the vehicle to the dealer and obtain a full refund of all payments made toward the purchase of the vehicle, provided the purchaser provides notice to the dealer of a decision to return the vehicle before issuance of a title for the vehicle by the Department, less any damage to the vehicle incurred while ownership was vested in the purchaser, and less a reasonable amount for use not to exceed one-half the amount allowed per mile by the Internal Revenue Service, as provided by regulation, revenue procedure, or revenue ruling promulgated pursuant to § 162 of the Internal Revenue Code, for use of a personal vehicle for business purposes.

C. Notwithstanding subsection B of this section, if the dealer fails to deliver the certificate of title or

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59 certificate of origin to the purchaser within thirty days, a second temporary certificate of registration
60 may be issued. However, the dealer shall, not later than the expiration of the first temporary certificate,
61 deliver to the Department an application for title, copy of the bill of sale, all required fees and a written
62 statement of facts describing the dealer's efforts to secure the certificate of title or certificate of origin to
63 the vehicle. On receipt of the title application with attachments as described herein, the Department shall
64 record the purchaser's rights hereunder to the vehicle and may authorize the dealer to issue a second
65 thirty-day temporary certificate of registration. If the dealer does not produce the certificate of title or
66 certificate of origin to the vehicle before the expiration of the second temporary certificate, the
67 purchaser's rights to the vehicle under this section may terminate and he shall have the right to return
68 the vehicle as provided in subsection B of this section.

69 D. If the dealer is unable to produce the certificate of title or certificate of origin to the vehicle
70 within the sixty-day period from the date of issuance of the first temporary certificate, the Department
71 may extend temporary registration for an additional period of up to ninety days, provided the dealer
72 makes application in the format required by the Department. If the dealer does not produce the
73 certificate of title or certificate of origin to the vehicle before the expiration of the additional ninety-day
74 period, the purchaser's rights hereunder to the vehicle may terminate and he shall have the right to
75 return the vehicle as provided in subsection B of this section.

76 E. The Commissioner, on determining that the provisions of this section or the directions of the
77 Department are not being complied with by a dealer, may suspend, after a hearing, the right of the
78 dealer to issue temporary certificates of registration.