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## SENATE BILL NO. 776

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Transportation  
on January 27, 2011)

(Patrons Prior to Substitute—Senators Marsh and Petersen [SB 1225])

A *BILL to amend and reenact § 46.2-205 of the Code of Virginia, relating to Department of Motor Vehicles offices and agencies; agreements with agents.*

**Be it enacted by the General Assembly of Virginia:****1. That § 46.2-205 of the Code of Virginia is amended and reenacted as follows:**

§ 46.2-205. Department offices and agencies; agreements with 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, *except those fees and service charges set forth in subdivision D 2*, 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. The compensation for each agency is to be fixed as set forth in subdivision D 2.~~

B. The Commissioner may enter into an agreement with any Virginia-licensed motor vehicle dealer, T&M vehicle dealer, trailer dealer, or motorcycle dealer to act as an agent of the Commissioner as provided in subsection A. ~~Motor vehicle dealers, T&M 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.~~

C. *Upon the request of the revenue officer of any county or city, the Commissioner shall enter into an agreement with such revenue officer to act as an agent of the Commissioner and to establish an agency as provided in subsection A, except that the Commissioner:*

*1. Shall appoint no more than 10 such agents in any calendar year, not including any such agents previously appointed;*

*2. Shall have discretion, if more than one revenue officer requests to enter an agency agreement, to determine the priority in which those requests shall be filled, taking into consideration the business needs of the Department;*

*3. Shall appoint no more than 75 such agents to serve at any one time;*

*4. Shall not appoint any such agent in any county or city in which there is located either (i) a branch office maintained by the Commissioner or (ii) an agency maintained by an agent of the Commissioner, except those localities currently authorized; and*

*5. Shall not have more than one agency location in any county or city except those locations currently authorized.*

*For purposes of this section, "revenue officer" means the commissioner of the revenue elected to serve the county or city, the treasurer elected to serve the county or city, or, for a county or city in which no commissioner of the revenue or treasurer has been elected, the director of finance for the county or city.*

*For purposes of this subsection, if a branch office maintained by the Commissioner or an agency maintained by an agent of the Commissioner is located in a town, such branch office or agency shall be*

60 *considered located in the county within which such town is located.*

61 *The Commissioner may terminate for cause any agreement executed under this subsection.*

62 *D. 1. An agent appointed under subsection C shall charge the same fees and service charges for its*  
63 *services as an agent as those fees and service charges charged at a branch office maintained by the*  
64 *Commissioner. The agent shall remit to the Department all such fees and service charges that the agent*  
65 *collects.*

66 *2. In addition to the other fees and service charges provided under this subsection, the agent may*  
67 *impose and collect a service charge, not to exceed \$5 per transaction, which the agent may retain as*  
68 *compensation for its services. The agent shall not receive any other compensation for its services as an*  
69 *agent, nor shall the Commissioner cause to be paid to the agent any freight, cartage, premium on bond,*  
70 *postage, extra clerk hire, or any other expense occasioned by the agent's duties.*

71 *No agent appointed under subsection C shall process any transaction from a Virginia-licensed motor*  
72 *vehicle dealer, T&M vehicle dealer, trailer dealer, or motorcycle dealer who also participates in an*  
73 *online dealer system approved by the Department.*

74 *E. The Commissioner shall have the authority to act as the agent of any revenue officer, for the*  
75 *purpose of collecting any fee, tax, or other liability that prevents the Department from processing a*  
76 *transaction under § 46.2-646. The Commissioner shall remit all such collections to the appropriate*  
77 *revenue officer.*

78 **2. That, notwithstanding the provisions of subsection C of § 46.2-205 of the Code of Virginia, the**  
79 **Commissioner of the Department of Motor Vehicles may enter into an agreement with an agent**  
80 **who is neither a motor vehicle dealer nor a local revenue officer, provided such agent was**  
81 **appointed under an agreement in effect on January 1, 2011. However the provisions of subsection**  
82 **D of § 46.2-205 of the Code of Virginia shall not apply to any such agent.**