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HOUSE BILL NO. 166

Offered January 8, 2014

Prefiled December 20, 2013

A BILL to amend and reenact §§ 46.2-1205, 46.2-1601, 46.2-1603.1, 46.2-1608, and 46.2-1609 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 46.2-1601.1, 46.2-1601.2, and 46.2-1601.3, relating to inoperable, abandoned, and salvage vehicles; salvage vehicle dealers.

Patron—Scott

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-1205, 46.2-1601, 46.2-1603.1, 46.2-1608, and 46.2-1609 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 46.2-1601.1, 46.2-1601.2, and 46.2-1601.3 as follows:

§ 46.2-1205. Disposition of inoperable abandoned vehicles.

A. For the purposes of this section, "demolisher" has the meaning ascribed to it in § 46.2-1600.

B. Notwithstanding any other provisions of this article, any inoperable motor vehicle, trailer, semitrailer, or part of a motor vehicle, trailer, or semitrailer which has been taken into custody pursuant to other provisions of this article may be disposed of to a demolisher, without the title and without the notification procedures, by the person or locality on whose property or in whose possession the motor vehicle, trailer, or semitrailer is found. Such demolisher shall be properly licensed under the provisions of Chapter 16 (§ 46.2-1600 et seq.). The demolisher, on taking custody of the inoperable abandoned motor vehicle, shall notify the Department on forms and in the manner prescribed by the Commissioner. Notwithstanding any other provision of law, no other report or notice shall be required in this instance.

§ 46.2-1601. Licensing of dealers of salvage vehicles; fees.

A. It shall be unlawful for any person to engage in business in the Commonwealth as a demolisher, rebuilder, salvage dealer, salvage pool, or vehicle removal operator without first acquiring a license issued by the Commissioner for each such business at each location. The fee for the first such license issued or renewed under this chapter shall be \$100 per license year or part thereof. The fee for each additional license issued or renewed under this chapter for the same location shall be \$25 per license year or part thereof. However, no fee shall be charged for supplemental locations of a business located within 500 yards of the licensed location.

B. No license shall be issued or renewed for any person unless (i) the licensed business contains at least 600 square feet of enclosed space, (ii) the licensed business is shown to be in compliance with all applicable zoning ordinances, and (iii) effective October 1, 2009, any new applicant, and, effective with the next renewal of a license after October 1, 2009, any other the applicant must can (a) certify to the Commissioner that the licensed business is permitted under a Virginia Pollutant Discharge Elimination System individual or general permit issued by the State Water Control Board for discharges of storm water associated with industrial activity and provides the permit number(s) from such permit(s) or (b) certify to the Commissioner that the licensed business is otherwise exempt from such permitting requirements. Nothing in this section shall authorize any person to act as a motor vehicle dealer or salesperson without being licensed under Chapter 15 of this title (§ 46.2-1500 et seq.) and meeting all requirements imposed by such chapter.

C. Licenses issued under this section shall be deemed not to have expired if the renewal application and required fees as set forth in subsection A are received by the Commissioner or postmarked not more than 30 days after the expiration date of such license. Whenever the renewal application is received by the Commissioner or postmarked not more than 30 days after the expiration date of such license, the license fees shall be 150 percent of the fees provided for in subsection A.

D. The Commissioner may offer an optional multiyear license for any license set forth in this section. When such option is offered and chosen by the licensee, all fees due at the time of licensing shall be multiplied by the number of years for which the license will be issued.

On due notice and hearing, the Commissioner may suspend or revoke any license issued under this chapter for any violation of any provision of this chapter or a violation of § 46.2-1074 or § 46.2-1075. Suspension or revocation shall only be imposed on the specific business found to be in violation.

§ 46.2-1601.1. Display of license; business hours.

Any license issued under this chapter shall be conspicuously displayed at the licensed place of business.

59 *The licensee shall display his usual business hours at the licensed place of business. The hours shall*
 60 *be posted and maintained conspicuously on or near the main entrance of each place of business. Each*
 61 *licensee shall include his usual business hours on the original and every renewal application for a*
 62 *license issued under this chapter. Changes to these hours shall be immediately filed with the*
 63 *Commissioner.*

64 **§ 46.2-1601.2. Acts of officers, directors, and partners.**

65 *If a licensee is a partnership or corporation, it shall be sufficient cause for the denial, suspension, or*
 66 *revocation of a license that any officer, director, or trustee of the partnership or corporation, or any*
 67 *member in the case of a partnership, has committed any act or omitted any duty which would be cause*
 68 *for refusing, suspending, or revoking a license issued to him as an individual under this chapter.*

69 **§ 46.2-1601.3. Grounds for denying, suspending, or revoking licenses.**

70 *The Commissioner may deny, suspend, or revoke a license under this chapter on any one or more of*
 71 *the following grounds:*

72 *1. Material misstatement or omission in application for license, certificate of title, salvage certificate,*
 73 *or nonrepairable certificate;*

74 *2. Failure to comply subsequent to receipt of a written warning from the Commissioner;*

75 *3. Failure to comply with the requirements of subsection B of § 46.2-1601;*

76 *4. Defrauding any retail buyer, to the buyer's damage, or any other person in the conduct of the*
 77 *licensee's business;*

78 *5. Having used deceptive acts or practices;*

79 *6. Knowingly advertising by any means any assertion, representation, or statement of fact which is*
 80 *untrue, misleading, or deceptive in any particular relating to the conduct of the business licensed for*
 81 *which a license is sought;*

82 *7. Having been convicted of any fraudulent act in connection with the business of selling vehicles,*
 83 *vehicle parts, or major components;*

84 *8. Having been convicted of any criminal act involving the business of selling vehicles, vehicle parts,*
 85 *or major components;*

86 *9. Willfully retaining in his possession title to a motor vehicle or a salvage certificate that has not*
 87 *been completely and legally assigned to him;*

88 *10. Having been convicted of a felony;*

89 *11. Having been convicted of larceny of a vehicle or receipt or sale of a stolen vehicle;*

90 *12. Having been convicted of odometer tampering or any related violation;*

91 *13. Having been convicted of a violation of § 46.2-1074 or 46.2-1075;*

92 *14. Failure to comply with federal reporting requirements pursuant to subsection G of § 46.2-1603.1;*

93 *15. Failure or refusal to pay civil penalties imposed by the Commissioner pursuant to § 46.2-1609;*

94 *16. Failure to comply with the requirements of § 46.2-1205;*

95 *17. Failure to comply with the requirements of § 46.2-1608.2; or*

96 *18. Failure to comply with any other provision of this chapter.*

97 *Suspension or revocation under this section shall only be imposed on the specific business found to*
 98 *be in violation.*

99 **§ 46.2-1603.1. Duties of licensees.**

100 *A. If a salvage vehicle is purchased by a salvage dealer and the vehicle is sold as a unit to anyone*
 101 *other than a demolisher, rebuilder, vehicle removal operator, or scrap metal processor, the purchaser*
 102 *shall obtain from the Department a salvage certificate. If the sale is to a demolisher or vehicle removal*
 103 *operator, the salvage vehicle shall be assigned in the space provided for such assignments on the*
 104 *existing salvage certificate. If a vehicle is purchased by a salvage dealer and disassembled for parts only*
 105 *or demolished by a demolisher, the salvage dealer shall immediately and conspicuously indicate on the*
 106 *salvage certificate or title that the vehicle was disassembled for parts only or demolished and*
 107 *immediately forward the salvage certificate or title to the Department for cancellation. The Department*
 108 *shall cancel the title or salvage certificate and issue a nonrepairable certificate for the vehicle to the*
 109 *salvage dealer.*

110 *1. If a vehicle for which a title or salvage certificate or other ownership document has been issued*
 111 *by a foreign jurisdiction and is purchased by a salvage dealer or demolisher and disassembled for parts*
 112 *only or demolished by a demolisher, the salvage dealer or demolisher shall immediately and*
 113 *conspicuously indicate on the salvage certificate, title, or other ownership document that the vehicle was*
 114 *disassembled for parts only or demolished and immediately forward the salvage certificate, title or other*
 115 *ownership document to the Department for cancellation. The Department shall cancel the title, salvage*
 116 *certificate, or other ownership document and issue a nonrepairable certificate for the vehicle to the*
 117 *salvage dealer.*

118 *2. There shall be no fee for the issuance of a nonrepairable certificate.*

119 *B. If a licensee acquires any late model vehicle, he shall immediately compare the vehicle*
 120 *identification number assigned by the manufacturer or the Department or the identification number*

121 issued or assigned by another state with the title or salvage certificate of the vehicle and shall notify the
122 Department as provided in subsection C. Such comparison and notification shall not be required of a
123 demolisher if the vehicle was acquired from a licensed salvage dealer, rebuilder, salvage pool, or vehicle
124 removal operator and such licensee delivers to the demolisher a title or salvage certificate for the
125 vehicle.

126 C. If the vehicle identification number has been altered, is missing, or appears to have been
127 otherwise tampered with, the licensee shall take no further action with regard to the vehicle except to
128 safeguard it in its then-existing condition and shall promptly notify the Department. The Department
129 shall, after an investigation has been made, notify the licensee whether the vehicle can be freed from
130 this limitation. In no event shall the vehicle be disassembled, demolished, processed, or otherwise
131 modified or removed prior to authorization by the Department. If the vehicle is a motorcycle, the
132 licensee shall cause to be noted on the title or salvage certificate, certifying on the face of the document,
133 in addition to the above requirements, the frame number of the motorcycle and motor number, if
134 available.

135 D. Except as provided in § 46.2-1203, after a vehicle has been demolished, the demolisher shall,
136 within five working days, deliver to the Department the salvage certificate or title, certifying on the face
137 of the document that the vehicle has been destroyed.

138 E. Except as provided in § 46.2-1203, it shall be unlawful for any licensee to purchase, receive, take
139 into inventory, or otherwise accept from any person any late model vehicle unless, as a part of any such
140 transaction, the licensee also receives a title, salvage certificate, nonrepairable certificate, or other
141 ownership documents, issued by an appropriate regulatory agency within or without the Commonwealth,
142 relating to such vehicle. Every licensee shall maintain as a part of his business records a title, salvage
143 certificate, nonrepairable certificate, or other ownership documents, issued by an appropriate regulatory
144 agency within or without the Commonwealth, pertaining to every late model vehicle in his inventory or
145 possession.

146 F. If a licensee intends to utilize machinery to crush, flatten, or otherwise reduce one or more
147 vehicles to a state where it can no longer be considered a vehicle at a location other than the location
148 specified on the license filed with the Department, the licensee shall apply to the Department for a
149 permit of operation in a manner prescribed by the Commissioner. Each permit shall be valid for a period
150 not to exceed 15 days and shall specify the location of intended operation. The cost of each permit shall
151 be \$15.

152 G. *The licensee shall comply with all applicable federal title reporting requirements, including the*
153 *reporting requirements of the National Motor Vehicle Title Information System pursuant to 28 C.F.R.*
154 *§ 25.56.*

155 **§ 46.2-1608. Maintenance and contents of records.**

156 A. Each licensee shall maintain a record of the receipt of any vehicle. *Such record shall be*
157 *maintained at the licensee's place of business.* The record, at a minimum, shall contain:

- 158 1. A description of each vehicle purchased, exchanged, or acquired by the licensee, including, but not
- 159 limited to, the model, make, year of the vehicle as well as the vehicle's title number with state of
- 160 issuance and vehicle identification number;
- 161 2. The price paid for each vehicle;
- 162 3. The name and address of the seller from whom each vehicle is purchased, exchanged, or acquired;
- 163 4. The date and hour the purchase, exchange, or acquisition was made;
- 164 5. A photocopy of the seller's driver's license, state identification card, official United States military
- 165 identification card, or any other form of personal identification with photograph;
- 166 6. A digital photograph of the seller, along with the vehicle that he is selling or exchanging with the
- 167 licensee; and
- 168 7. The signature of the licensee and the seller as executed at the time of the purchase, exchange, or
- 169 acquisition of the vehicle by the licensee.

170 B. If any major component, as defined in § 46.2-1600, is sold, the salvage dealer shall provide, upon
171 request of any law-enforcement official, the information required by this section as to the vehicle from
172 which the part was taken.

173 C. The provisions of subdivisions A 5 and A 6 shall not apply to vehicles when the licensee
174 maintains a photocopy or electronic copy of one of the documents set out in § 46.2-1206 or this chapter.

175 D. The provisions of this section shall not apply to salvage pools as defined in § 46.2-1600, except
176 that salvage pools shall maintain a record of the receipt of any vehicle that contains the date of receipt
177 of the vehicle, its make, year, model, identification number, name, and address of the person from
178 whom it was acquired, the vehicle's title number, and state of issuance.

179 **§ 46.2-1609. Penalties.**

180 A. First violations of any provision of this chapter shall constitute a Class 1 misdemeanor, and
181 second and subsequent violations of any provision of this chapter shall constitute a Class 5 felony. Upon

182 receipt of any such conviction, the Commissioner may suspend, revoke, cancel, or refuse to renew the
183 license of any licensee under this chapter, and the Commissioner may also assess a civil penalty against
184 such licensee not to exceed \$2,500 for any conviction.

185 *B. Except as otherwise provided in this chapter, any licensee violating any of the provisions of this*
186 *chapter may be assessed a civil penalty by the Commissioner not to exceed \$1,000 for any single*
187 *violation.*

188 *C. Notice of an order suspending, revoking, canceling, or denying renewal of a license, imposing a*
189 *limitation on operation, or imposing a ~~monetary~~ civil penalty and advising the licensee of the*
190 *opportunity for a hearing shall be mailed to the licensee by first-class mail to the address as shown on*
191 *the licensee's most recent application for a license and shall be considered served when mailed. No order*
192 *of ~~suspension~~ required by this section shall become effective until the Commissioner has offered the*
193 *licensee an opportunity for an administrative hearing to show cause why the order of ~~suspension~~ should*
194 *not be enforced. Notice of the opportunity for an administrative hearing may be included in the order of*
195 *~~suspension~~. Any request for an administrative hearing made by such person must be received by the*
196 *Department within 30 days of the issuance date of the order unless the person presents to the*
197 *Department evidence of military service as defined by the federal Servicemembers Civil Relief Act (50*
198 *U.S.C. App. § 501 et seq.), incarceration, commitment, hospitalization, or physical presence outside the*
199 *United States at the time the order was issued.*

200 *D. Upon receipt of a request for a hearing appealing the suspension or imposition of civil penalties,*
201 *the licensee shall be afforded the opportunity for a hearing as soon as practicable, but in no case later*
202 *than 30 days from receipt of the hearing request. ~~The~~ Any suspension shall remain in effect pending the*
203 *outcome of the hearing.*