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## SENATE BILL NO. 296

Senate Amendments in [ ] — January 27, 2014

A *BILL to amend and reenact §§ 46.2-1503, 46.2-1508, 46.2-1519, 46.2-1527.1, 46.2-1908, and 46.2-1919 of the Code of Virginia, relating to the Motor Vehicle Dealer Board, motor vehicle dealers, and T&M vehicle dealers.*

Patron Prior to Engrossment—Senator Puckett

Referred to Committee on Transportation

**Be it enacted by the General Assembly of Virginia:**

1. That §§ 46.2-1503, 46.2-1508, 46.2-1519, 46.2-1527.1, 46.2-1908, and 46.2-1919 of the Code of Virginia are amended and reenacted as follows:

**§ 46.2-1503. Motor Vehicle Dealer Board.**

A. The Motor Vehicle Dealer Board is hereby created. The Board shall consist of 19 members appointed by the Governor, subject to confirmation by the General Assembly. Every member appointed by the Governor must be a citizen of the United States and must be a resident of Virginia. The Governor may remove any member as provided in subsection B of § 2.2-108. The initial terms of eight of the members appointed in July of 1995 shall commence when appointed and shall be for terms ending on June 30, 1997. Nine members shall be appointed for four-year terms. The members shall be at-large members and, insofar as practical, should reflect fair and equitable statewide representation.

B. Nine members shall be licensed franchised motor vehicle dealers who have been licensed as such for at least two years prior to being appointed by the Governor and seven members shall be licensed independent motor vehicle dealers who (i) have been licensed as such for at least two years prior to being appointed by the Governor and (ii) are not also franchised motor vehicle dealers. One of the independent dealers appointed to the Board shall be a licensed motor vehicle dealer primarily engaged in the business of renting vehicles, and one shall be a licensed independent dealer primarily engaged in the motor vehicle salvage business. ~~One member~~ Two members shall be ~~an individual~~ individuals who has ~~have~~ no direct or indirect interest, other than as a ~~consumer~~ consumers, in or relating to the motor vehicle industry.

C. Appointments shall be for terms of four years, and no person other than the Commissioner of the Department of Motor Vehicles ~~and the Commissioner of Agriculture and Consumer Services~~ or his designee shall be eligible to serve more than two successive four-year terms. The Commissioner of the Department of Motor Vehicles shall serve as chairman of the Board. Vacancies shall be filled by appointment by the Governor for the unexpired term and shall be effective until 30 days after the next meeting of the ensuing General Assembly and, if confirmed, thereafter for the remainder of the term. Any person appointed to fill a vacancy may serve two additional successive terms.

D. The Commissioner of the Department of Motor Vehicles ~~and the Commissioner of Agriculture and Consumer Services~~ or his designee shall be ~~an ex officio voting members~~ member of the Board.

E. Members of the Board shall be reimbursed their actual and necessary expenses incurred in carrying out their duties, such reimbursement to be paid from the special fund referred to in § 46.2-1520.

**§ 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~~ this chapter. 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

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60 new motor vehicle of such franchisor's line-make manufactured in or brought into the Commonwealth  
61 for sale prior to the suspension, revocation or expiration of the license.

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

63 **§ 46.2-1519. License and registration fees; additional to other licenses and fees required by law.**

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

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

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

69 3. For motor vehicle dealers licensed in other states, but not in Virginia, not more than \$100.

70 [The determination of fees by the Board under this subsection shall not be subject to the provisions  
71 of the Administrative Process Act (§ 2.2-4000 et seq.).]

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

75 C. The fee for issuance to a nonprofit organization of a certificate pursuant to subsection B of  
76 § 46.2-1508.1 shall be \$25 per year or any part thereof.

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

80 E. The Board may authorize discounts and other incentives to encourage licensees to conduct  
81 transactions with the Board (i) by means of electronic technologies and (ii) for multi-year periods.

82 F. The fee for reprinting licenses, certificates, and registrations shall be \$10 for each reprint.

83 G. The fee for reinstating a license, certificate, or registration that has been suspended shall be \$50.

84 **§ 46.2-1527.1. Motor Vehicle Transaction Recovery Fund established.**

85 All fees in this article shall be deposited in the Motor Vehicle Transaction Recovery Fund,  
86 hereinafter referred to in this article as "the Fund." The Fund shall be a special fund in the state treasury  
87 to pay claims against the Fund and for no other purpose, provided that any such payment does not result  
88 in a negative balance of the Fund, except the Board may expend moneys for the administration of this  
89 article up to the maximum amount authorized for consumer assistance in the general appropriation act,  
90 provided the amount expended for administration does not result in a balance of the Fund of less than  
91 \$250,000. The Fund shall be used to satisfy unpaid judgments, as provided for in § 46.2-1527.3. Any  
92 interest income shall accrue to the Fund. The Board shall maintain an accurate record of all transactions  
93 involving the Fund. The Board may levy a special assessment on all dealers participating in the Fund to  
94 pay claims against the Fund and to maintain a minimum Fund balance that is in its judgment adequate.  
95 The Board may choose to await a positive balance in the Fund to pay claims ready for payment in  
96 chronological order, provided such claims do not go unpaid for more than 60 days.

97 Every applicant renewing a motor vehicle dealer's license shall pay, in addition to other license fees,  
98 an annual Fund fee of \$100, and every applicant for a motor vehicle salesperson's license shall pay, in  
99 addition to other license fees, an annual Fund fee of \$10, prior to license issue. However, annual Fund  
100 renewal fees from salespersons shall not exceed \$100 per year from an individual dealer. These fees  
101 shall be deposited in the Motor Vehicle Transaction Recovery Fund.

102 Applicants for an original motor vehicle dealer's license shall pay an annual Fund fee of ~~\$250~~ \$350  
103 each year for three consecutive years. During this period, the ~~\$250~~ \$350 Fund fee will take the place of  
104 the annual \$100 Fund fee.

105 In addition to the ~~\$250~~ \$350 annual fee, applicants for an original dealer's license shall have a  
106 \$50,000 bond pursuant to § 46.2-1527.2 for three consecutive years. Only those renewing licensees who  
107 have not been the subject of a claim against their bond or against the Fund for three consecutive years  
108 shall pay the annual \$100 fee and will no longer be required to pay the ~~\$250~~ \$350 annual fee or hold  
109 the \$50,000 bond.

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

112 The Board may suspend or reinstate collection of Fund fees.

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

117 The provisions of this section shall not apply to applicants for the renewal of a motor vehicle dealer's  
118 license where such applicants have not been the subject of a claim against a bond issued pursuant to  
119 § 46.2-1527.2 or against the Fund for three years and such applicants elect to maintain continuous  
120 bonding pursuant to Article 3.2 (§ 46.2-1527.9 et seq.). Such applicants shall not participate in the Fund  
121 and shall be exempt from the payment of any Fund fees.

**§ 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.

**§ 46.2-1919. 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 (§ 46.2-1500 et seq.), 19.1 (§ 46.2-1992 et seq.), or 19.2 (§ 46.2-1993 et seq.); the Commissioner shall waive the fee for nonprofit organizations certified under Chapter 15, 19.1, or 19.2.

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.

E. The fee for reprinting licenses, certificates, and registrations shall be \$10 for each reprint.

F. The fee for reinstating a license, certificate, or registration that has been suspended shall be \$50.