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HOUSE BILL NO. 2189

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the House Committee on Transportation
on February 5, 2015)
(Patron Prior to Substitute—Delegate McQuinn)

A BILL to amend and reenact §§ 46.2-205, 46.2-602.2, 46.2-618, 46.2-626.1, 46.2-644.1, 46.2-644.3, 46.2-654.1, 46.2-1105, 46.2-1139, 46.2-1500, 46.2-1503, 46.2-1504, 46.2-1505, 46.2-1508, 46.2-1509 through 46.2-1512, 46.2-1515, 46.2-1516, 46.2-1518, 46.2-1519, 46.2-1521, 46.2-1527.1, 46.2-1527.2, 46.2-1527.3, 46.2-1527.5, 46.2-1527.10, 46.2-1529, 46.2-1529.1, 46.2-1530, 46.2-1531, 46.2-1532, 46.2-1533, 46.2-1534, 46.2-1536, 46.2-1539, 46.2-1540, 46.2-1542 through 46.2-1545, 46.2-1547, 46.2-1558, 46.2-1561, 46.2-1565.1, 58.1-2405, and 58.1-3506 of the Code of Virginia; to amend the Code of Virginia by adding a section numbered 46.2-1539.1, by adding in Article 5 of Chapter 15 of Title 46.2 sections numbered 46.2-1545.1 and 46.2-1545.2, by adding in Article 6 of Chapter 15 of Title 46.2 sections numbered 46.2-1557.3 and 46.2-1557.4, and by adding in Chapter 15 of Title 46.2 an article numbered 7.2, consisting of sections numbered 46.2-1573.2 through 46.2-1573.12, an article numbered 7.3, consisting of sections numbered 46.2-1573.13 through 46.2-1573.24, and an article numbered 7.4, consisting of sections numbered 46.2-1573.25 through 46.2-1573.37; and to repeal Chapters 19, 19.1, and 19.2 (§§ 46.2-1900 through 46.2-1993.82) of Title 46.2 of the Code of Virginia, relating to motor vehicle dealers; penalties.

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-205, 46.2-602.2, 46.2-618, 46.2-626.1, 46.2-644.1, 46.2-644.3, 46.2-654.1, 46.2-1105, 46.2-1139, 46.2-1500, 46.2-1503, 46.2-1504, 46.2-1505, 46.2-1508, 46.2-1509 through 46.2-1512, 46.2-1515, 46.2-1516, 46.2-1518, 46.2-1519, 46.2-1521, 46.2-1527.1, 46.2-1527.2, 46.2-1527.3, 46.2-1527.5, 46.2-1527.10, 46.2-1529, 46.2-1529.1, 46.2-1530, 46.2-1531, 46.2-1532, 46.2-1533, 46.2-1534, 46.2-1536, 46.2-1539, 46.2-1540, 46.2-1542 through 46.2-1545, 46.2-1547, 46.2-1558, 46.2-1561, 46.2-1565.1, 58.1-2405, and 58.1-3506 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 46.2-1539.1, by adding in Article 5 of Chapter 15 of Title 46.2 sections numbered 46.2-1545.1 and 46.2-1545.2, by adding in Article 6 of Chapter 15 of Title 46.2 sections numbered 46.2-1557.3 and 46.2-1557.4, and by adding in Chapter 15 of Title 46.2 an article numbered 7.2, consisting of sections numbered 46.2-1573.2 through 46.2-1573.12, an article numbered 7.3, consisting of sections numbered 46.2-1573.13 through 46.2-1573.24, and an article numbered 7.4, consisting of sections numbered 46.2-1573.25 through 46.2-1573.37, 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, 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.

B. The Commissioner may enter into an agreement with any Virginia-licensed motor vehicle dealer, ~~T&M~~ *recreational* 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~~ *recreational* 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.

§ 46.2-602.2. Titling and registration of company vehicles of automotive manufacturers.

For the purpose of this section:

"Automotive manufacturer" means the entire worldwide affiliated group as defined in § 58.1-3700.1, as of July 31, 2007, if at least one member of the worldwide affiliated group is an automotive manufacturer, as classified under the 2007 North American Industry Classification System Codes 3361, 3362, and 3363 in effect as of December 31, 2007.

"Company vehicles" means the following vehicles owned or operated by an automotive manufacturer having its headquarters in Virginia:

1. Vehicles used for sales or service training, advertising, public relations, quality control, and emissions or other testing and/or evaluation purposes;

2. Vehicles used for headquarters-related purposes, including but not necessarily limited to use by visiting executives or employees;

3. Vehicles provided for use by eligible headquarters employees or their eligible family members in compliance with established corporate policies as may from time to time be in effect, but not more than four vehicles may be leased for the benefit of any eligible headquarters employee at any one time; and

4. All other vehicles deemed by the automotive manufacturer to serve a headquarters function, but excluding any vehicles provided for use by eligible headquarters employees or their eligible family members in compliance with established corporate policies.

"Family members" means the spouse of an employee, and the children and parents of an employee or an employee's spouse.

"Headquarters" means a facility at which company employees are physically employed and at which the majority of the company's financial, personnel, legal, or planning functions are handled either on a regional or national basis.

Each automotive manufacturer having its headquarters in the Commonwealth shall be issued a motor vehicle dealer license or equivalent permit by the Commissioner. Such license or permit shall authorize the automotive manufacturer to dispose of company vehicles using a manufacturer's certificate of origin, but if disposed of within the Commonwealth of Virginia, such vehicles may only be transferred to a new motor vehicle dealer holding a franchise for the automotive manufacturer's line-make, provided each vehicle is transferred with a designation indicating that it is not a new motor vehicle as defined in § 46.2-1500. The automotive manufacturer and its affiliates may sell used motor vehicles directly to its lessees.

An automotive manufacturer having its headquarters in the Commonwealth may obtain a title for any company vehicle, but issuance of any such title shall be exempt from all fees except for the fee for issuance of a certificate of title as provided in § 46.2-627.

All company vehicles used as provided in this section may be driven using license plates issued and affixed as provided in Article 5 (§ ~~46.2-1546~~ *46.2-1545.1* et seq.) of Chapter 15. All such vehicles shall be classified as merchants' capital and subject to merchants' capital tax pursuant to Article 3 (§ 58.1-3509 et seq.) of Chapter 35 of Title 58.1.

§ 46.2-618. When unlawful to have in possession certificate of title issued to another; remedy of purchaser against persons in possession of title of vehicle purchased from dealer.

A. It shall constitute a Class 1 misdemeanor for any person in the Commonwealth to possess a certificate of title issued by the Commissioner to a person other than the holder thereof, unless the certificate of title has been assigned to the holder as provided in this title. This section, however, shall apply neither to secured parties who legally hold certificates of title as provided in this title nor to the spouse of the person to whom the certificate of title was issued.

B. When a purchaser of a motor vehicle is unable to obtain the title for such vehicle because the motor vehicle dealer who sold the vehicle to the purchaser is no longer engaged in business in the Commonwealth as a dealer as defined in § 46.2-1500~~, 46.2-1900, 46.2-1992, or 46.2-1993~~ and the purchaser must petition a court of competent jurisdiction to direct that a person other than the dealer holding the title to release the title to the purchaser, the Court may order the title be released to the buyer if the court finds that the purchaser has a right to the title superior to that of the person holding the title under the laws of the Commonwealth. The court may also, upon finding that the person holding the title must release it, award reasonable attorney fees, expenses, and costs incurred by the purchaser in making the petition to the court.

§ 46.2-626.1. Motorcycle purchased by manufacturer for parts; documentation required for sale of parts.

For the purposes of this section, "certificate of origin," "line-make," "manufacturer," and "new motorcycle" have the meanings ascribed to them in § ~~46.2-1993~~ *46.2-1500*.

A licensed motorcycle manufacturer shall not be required to obtain a certificate of title for a new

motorcycle of a different line-make purchased by the manufacturer for the purpose of obtaining parts used in the production of another new motorcycle or an autocycle, provided such manufacturer obtains a salvage dealer license in accordance with § 46.2-1601. The manufacturer shall not be required to obtain a nonrepairable certificate for the purchased motorcycle, as required by § 46.2-1603.1, but shall stamp the words "Va. Code § 46.2-626.1: DISASSEMBLED FOR PARTS" in a minimum font size of 14 point across the face of the original manufacturer's certificate of origin. The certificate of origin shall be forwarded to the Department, which shall make a record of the disassembly of the motorcycle. The manufacturer shall retain a photocopy of the stamped certificate of origin for its records.

Any parts remaining from the purchased motorcycle and sold as parts by the manufacturer shall be accompanied by documentation of how such parts were obtained. Documentation accompanying the frame of the purchased motorcycle shall include a photocopy of the stamped manufacturer's certificate of origin and certification from the manufacturer that the original certificate of origin has been forwarded to the Department.

§ 46.2-644.1. Titling of all-terrain vehicles and off-road motorcycles.

A. Every owner, except a dealer licensed under § ~~46.2-1993.6~~ *46.2-1508*, of any all-terrain vehicle or off-road motorcycle powered by a gasoline or diesel engine displacing more than 50 cubic centimeters and purchased as new on or after July 1, 2006, shall apply to the Department for a certificate of title in the name of the owner before the all-terrain vehicle or off-road motorcycle is operated anywhere in the Commonwealth.

B. Any owner of an all-terrain vehicle or off-road motorcycle not required to be titled under this section and not titled elsewhere~~,~~ may apply to the Department for a certificate of title. The Department shall issue the certificate upon reasonable evidence of ownership, such as a ~~bill of sale~~ *buyer's order* or other document satisfactory to the Department.

C. Except as otherwise provided in this title, all-terrain vehicles and off-road motorcycles shall comply with the titling requirements of motor vehicles pursuant to Article 2 (§ 46.2-616 et seq.) ~~of this chapter~~.

§ 46.2-644.3. Acquisition of all-terrain vehicle or off-road motorcycle by dealer.

Any dealer licensed under § ~~46.2-1993.6~~ *46.2-1508* who acquires an all-terrain vehicle or off-road motorcycle for resale shall be exempt from the titling requirements of this title.

Any dealer transferring an all-terrain vehicle or off-road motorcycle titled under this title shall assign the title to the new owner or, in the case of a new all-terrain vehicle or off-road motorcycle, assign the certificate of origin.

§ 46.2-654.1. Temporary registration issued for purchasers of motor vehicles from motor vehicle dealers who are no longer engaged in business and title is held by person other than dealer.

The Department may issue a temporary registration to any purchaser of a motor vehicle who is unable to obtain the title for such vehicle because the motor vehicle dealer who sold the vehicle to the purchaser is no longer engaged in business in the Commonwealth as a dealer as defined in § 46.2-1500~~, 46.2-1900, 46.2-1992, or 46.2-1993~~ and the title is held by a person other than such dealer.

§ 46.2-1105. Width of vehicles generally; exceptions.

A. No vehicle, including any load thereon, but excluding the mirror required by § 46.2-1082 and any warning device installed on a school bus pursuant to § 46.2-1090, shall exceed a total outside width as follows:

1. Passenger bus operated in an incorporated city or town when authorized under § 46.2-1300 - 102 inches;

2. School buses - 100 inches;

3. Vehicles hauling boats or other watercraft - 102 inches;

4. Other vehicles - 102 inches.

B. Notwithstanding subsection A ~~of this section~~, a travel trailer as defined in § ~~46.2-1900~~ *46.2-1500* or a motor home may exceed 102 inches if such excess width is attributable to an appurtenance that extends no more than six inches beyond the body of the vehicle. For the purposes of this subsection, "appurtenance" includes (i) an awning and its support hardware and (ii) any appendage that is installed by the manufacturer or dealer intended to be an integral part of a motor home or travel trailer, but does not include any item that is temporarily attached to the exterior of the vehicle by the vehicle's owner for the purposes of transporting the item from one location to another.

§ 46.2-1139. Permits for excessive size and weight generally; penalty.

A. The Commissioner and, unless otherwise indicated in this article, local authorities of cities and towns, in their respective jurisdictions, may, upon written application and good cause being shown, and pursuant to the requirements of subsection A1, issue a permit authorizing the applicant to operate on a highway a vehicle of a size or weight exceeding the maximum specified in this title. Any such permit may designate the route to be traversed and contain any other restrictions or conditions deemed necessary by the body granting the permit.

A1. Any city or town, as authorized under subsection A, or any county that has withdrawn its roads from the secondary system of state highways that opts to issue permits under this article shall enter into a memorandum of understanding with the Commissioner that:

1. Allows the Commissioner to issue permits on behalf of that locality; and

2. Provides that the locality shall satisfy the following requirements prior to issuing such permits:

a. The locality shall have applications for each permit type available online.

b. The locality shall have designated telephone and fax lines to address permit requests and inquiries.

c. The locality shall have at least one staff member whose primary function is to issue permits.

d. The locality shall have one or more engineers on staff or contracted to perform bridge inspections and provide analysis for overweight vehicles.

e. The locality shall maintain maps indicating up-to-date vertical and horizontal clearance locations and limitations.

f. The locality shall provide to the Department an emergency contact phone number and assign a staff person who is authorized to issue the permit or authorized to make a decision regarding the permit request at all times (24 hours a day, seven days a week).

g. The locality shall process a "standard permit" for a "standard vehicle" by the next business day after receiving the completed permit application. Each locality shall define "standard vehicle" and "standard permit" and provide the Department with those definitions. All other requests for permits shall be processed within 10 business days.

h. The locality shall retain for at least 36 months all permit data it collects.

i. The locality shall maintain an updated list of all maintenance and construction projects within that locality. The list shall provide starting and ending locations and dates for each project, and shall be updated as those dates change.

j. The locality shall maintain a list of restricted streets. This list shall indicate all times of travel restrictions, oversize restrictions, and weight restrictions for streets within the locality's jurisdiction.

If the locality satisfies the requirements in the memorandum of understanding, the locality may issue permits under this article.

B. Except for permits issued under § 46.2-1141 for overweight vehicles transporting containerized freight and permits issued for overweight vehicles transporting irreducible loads, no overweight permit issued by the Commissioner or any local authority under any provision of this article shall be valid for the operation of any vehicle on an interstate highway if the vehicle has:

1. A single axle weight in excess of 20,000 pounds; or

2. A tandem axle weight in excess of 34,000 pounds; or

3. A gross weight, based on axle spacing, greater than that permitted in § 46.2-1127; or

4. A gross weight, regardless of axle spacing, in excess of 80,000 pounds.

C. The Commissioner may issue permits to operate or tow one or more travel trailers as defined in § ~~46.2-1900~~ *46.2-1500* or motor homes when any of such vehicles exceed the maximum width specified by law, provided the movement of the vehicle is prior to its retail sale and it complies with the provisions of § 46.2-1105. A copy of each such permit shall be carried in the vehicle for which it is issued.

D. 1. Every permit issued under this article for the operation of oversize or overweight vehicles shall be carried in the vehicle to which it refers and may be inspected by any officer or size and weight compliance agent. Violation of any term of any permit issued under this article shall constitute a Class 1 misdemeanor. Violation of terms and conditions of any permit issued under this article shall not invalidate the weight allowed on such permit unless (i) the permit vehicle is operating off the route listed on the permit, (ii) the vehicle has fewer axles than required by the permit, (iii) the vehicle has less axle spacing than required by the permit when measured longitudinally from the center of the axle to center axle with any fraction of a foot rounded to the next highest foot, or (iv) the vehicle is transporting multiple items not allowed by the permit.

2. Any multi-trip permit authorizing the applicant to operate on a highway a vehicle of a size or weight exceeding the maximum specified in this title may be transferred to another vehicle no more than two times in a 12-month period, provided that the vehicle to which the permit is transferred is subject to all the limitations set forth in the permit as originally issued. The applicant shall pay the Department an administrative fee of $10 for each transfer.

E. Any permit issued by the Commissioner or local authorities pursuant to state law may be restricted so as to prevent travel on any federal-aid highway if the continuation of travel on such highway would result in a loss of federal-aid funds. Before any such permit is restricted by the Commissioner, or local authority, written notice shall be given to the permittee.

F. When application is made for permits issued by the Commissioner as well as local authorities, any fees imposed therefor by the Commissioner as well as all affected local authorities may be paid by the applicant, at the applicant's option, to the Commissioner, who shall promptly transmit the local portion of the total fee to the appropriate locality or localities.

G. Engineering analysis, performed by the ~~Virginia~~ Department of Transportation or local authority, shall be conducted of a proposed routing before the Commissioner or local authority issues any permit under this section when such analysis is required to promote safety and preserve the capacity and structural integrity of highways and bridges. The Commissioner or local authority shall not issue a permit when the ~~Virginia~~ Department of Transportation or local authority determines that the roadway and bridges to be traversed cannot sustain a vehicle's size and weight.

§ 46.2-1500. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Board" means the Motor Vehicle Dealer Board.

"Camping trailer" means a recreational vehicle constructed with collapsible partial side walls that fold for towing by a consumer-owned tow vehicle and unfold at the campsite to provide temporary living quarters for recreational, camping, or travel use.

"Certificate of origin" means the document provided by the manufacturer of a new motor vehicle, or its distributor, which is the only valid indication of ownership between the manufacturer, its distributor, its franchised motor vehicle dealers, and the original purchaser not for resale.

"Dealer-operator" means the individual who works at the established place of business of a dealer and who is responsible for and in charge of day-to-day operations of that place of business.

"Demonstrator" means a new motor vehicle having a gross vehicle weight rating of less than 16,000 pounds that (i) has more than 750 miles accumulated on its odometer that has been driven by dealer personnel or by prospective purchasers during the course of selling, displaying, demonstrating, showing, or exhibiting it and (ii) may be sold as a new motor vehicle, provided the dealer complies with the provisions of subsection D of § 46.2-1530.

"Distributor" means a person who is licensed by the Department ~~of Motor Vehicles~~ under ~~Chapter 19 (§ 46.2-1900 et seq.)~~ *this chapter* and who sells or distributes new motor vehicles pursuant to a written agreement with the manufacturer~~,~~ to franchised motor vehicle dealers in the Commonwealth.

"Distributor branch" means a branch office licensed by the Department ~~of Motor Vehicles~~ under ~~Chapter 19 (§ 46.2-1900 et seq.)~~ *this chapter* and maintained by a distributor for the sale of motor vehicles to motor vehicle dealers or for directing or supervising, in whole or in part, its representatives in the Commonwealth.

"Distributor representative" means a person who is licensed by the Department ~~of Motor Vehicles~~ under ~~Chapter 19 (§ 46.2-1900 et seq.)~~ *this chapter* and employed by a distributor or by a distributor branch, for the purpose of making or promoting the sale of motor vehicles or for supervising or contacting its dealers, prospective dealers, or representatives in the Commonwealth.

"Factory branch" means a branch office maintained by a person for the sale of motor vehicles to distributors or for the sale of motor vehicles to motor vehicle dealers, or for directing or supervising, in whole or in part, its representatives in the Commonwealth.

"Factory representative" means a person who is licensed by the Department ~~of Motor Vehicles~~ under ~~Chapter 19 (§ 46.2-1900 et seq.)~~ *this chapter* and employed by a person who manufactures or assembles motor vehicles or by a factory branch for the purpose of making or promoting the sale of its motor vehicles or for supervising or contacting its dealers, prospective dealers, or representatives in the Commonwealth.

"Factory repurchase motor vehicle" means a motor vehicle sold, leased, rented, consigned, or otherwise transferred to a person under an agreement that the motor vehicle will be resold or otherwise retransferred only to the manufacturer or distributor of the motor vehicle, and which is reacquired by the manufacturer or distributor, or its agents.

"Family member" means a person who either (i) is the spouse, child, grandchild, spouse of a child, spouse of a grandchild, brother, sister, or parent of the dealer or owner or (ii) has been employed continuously by the dealer for at least five years.

"Franchise" means a written contract or agreement between two or more persons whereby one person, the franchisee, is granted the right to engage in the business of offering and selling, offering and delivering pursuant to a lease, servicing, or offering, selling, and servicing new motor vehicles of a particular line-make or late model or used motor vehicles of a particular line-make manufactured or distributed by the grantor of the right, the franchisor, and where the operation of the franchisee's business is substantially associated with the franchisor's trademark, trade name, advertising, or other commercial symbol designating the franchisor, the motor vehicle or its manufacturer or distributor. "Franchise" includes any severable part or parts of a franchise agreement which separately provides for selling and servicing different line-makes of the franchisor.

"Franchised late model or franchised used motor vehicle dealer" means a dealer selling used motor vehicles, including vehicles purchased from the franchisor, under the trademark of a manufacturer or distributor that has a franchise agreement with a manufacturer or distributor.

"Franchised motor vehicle dealer" *or "franchised dealer"* means a dealer in new motor vehicles that

has a franchise agreement with a manufacturer or distributor of new motor vehicles~~, trailers, or semitrailers~~ to sell new motor vehicles or to sell used motor vehicles under the trademark of a manufacturer or distributor regardless of the age of the motor vehicles~~, trailers, or semitrailers~~.

"Fund" means the Motor Vehicle Dealer Board Fund.

"Independent motor vehicle dealer" means a dealer in used motor vehicles.

"Late model motor vehicle" means a motor vehicle of the current model year and the immediately preceding model year.

"Line-make" means the name of the motor vehicle manufacturer or distributor and a brand or name plate marketed by the manufacturer or distributor. *The line-make of a motorcycle manufacturer, factory branch, distributor, or distributor branch includes every brand of all-terrain vehicle, autocycle, and off-road motorcycle manufactured or distributed bearing the name of the motorcycle manufacturer or distributer.*

"Manufactured home dealer" means any person licensed as a manufactured home dealer under Chapter 4.2 (§ 36-85.16 et seq.) of Title 36.

"Manufacturer" means a person who is licensed by the Department ~~of Motor Vehicles~~ under ~~Chapter 19 (§ 46.2-1900 et seq.)~~ *this chapter* and engaged in the business of constructing or assembling new motor vehicles and, in the case of trucks, *recreational vehicles, and motor homes,* also means a person engaged in the business of manufacturing engines, transmissions, power trains, or rear axles, when such engines, transmissions, power trains, or rear axles are not warranted by the final manufacturer or assembler of the truck, *recreational vehicle, or motor home.*

"Motorcycle" means every motor vehicle designed to travel on not more than three wheels in contact with the ground, except any vehicle within the term "farm tractor" or "moped" as defined in § 46.2-100. Except as otherwise provided, for the purposes of this chapter, all-terrain vehicles, autocycles, and off-road motorcycles are deemed to be motorcycles.

"Motor home" means a motorized recreational vehicle designed to provide temporary living quarters for recreational, camping, or travel use that contains at least four of the following permanently installed independent life support systems that meet the National Fire Protection Association standards for recreational vehicles: (i) a cooking facility with an onboard fuel source; (ii) a potable water supply system that includes at least a sink, a faucet, and a water tank with an exterior service supply connection; (iii) a toilet with exterior evacuation; (iv) a gas or electric refrigerator; (v) a heating or air conditioning system with an onboard power or fuel source separate from the vehicle engine; or (vi) a 110-125 volt electric power supply.

"Motor vehicle" means the same as provided in § 46.2-100, except, for the purposes of this chapter, "motor vehicle" does not include (i) ~~trailers and semitrailers; (ii)~~ manufactured homes, sales of which are regulated under Chapter 4.2 (§ 36-85.16 et seq.) of Title 36~~; (iii) motor homes; (iv) motorcycles; (v) autocycles~~; ~~(vi)~~ *(ii)* nonrepairable vehicles, as defined in § 46.2-1600; ~~(vii)~~ *(iii)* salvage vehicles, as defined in § 46.2-1600; or ~~(viii)~~ *(iv)* mobile cranes that exceed the size or weight limitations as set forth in § 46.2-1105, 46.2-1110, or 46.2-1113 or Article 17 (§ 46.2-1122 et seq.) of Chapter 10.

"Motor vehicle dealer" or "dealer" means any person who:

1. For commission, money, or other thing of value, buys, sells, exchanges, either outright or on conditional sale, bailment lease, chattel mortgage, or otherwise or arranges or offers or attempts to solicit or negotiate on behalf of others a sale, purchase, or exchange of an interest in new motor vehicles, new and used motor vehicles, or used motor vehicles alone, whether or not the motor vehicles are owned by him; or

2. Is wholly or partly engaged in the business of selling new motor vehicles, new and used motor vehicles, or used motor vehicles only, whether or not the motor vehicles are owned by him; or

3. Offers to sell, sells, displays, or permits the display for sale, of five or more motor vehicles within any 12 consecutive months.

For the purposes of Article 7.2 (§ 46.2-1573.2 et seq.), "dealer" means recreational vehicle dealer. For the purposes of Article 7.3 (§ 46.2-1573.13 et seq.), "dealer" means trailer dealer and watercraft trailer dealer. For the purposes of Article 7.4 (§ 46.2-1573.25 et seq.), "dealer" means motorcycle dealer.

"Motor vehicle dealer" or "dealer" does not include:

1. Receivers, trustees, administrators, executors, guardians, conservators or other persons appointed by or acting under judgment or order of any court or their employees when engaged in the specific performance of their duties as employees.

2. Public officers, their deputies, assistants, or employees, while performing their official duties.

3. Persons other than business entities primarily engaged in the leasing or renting of motor vehicles to others when selling or offering such vehicles for sale at retail, disposing of motor vehicles acquired for their own use and actually so used, when the vehicles have been so acquired and used in good faith and not for the purpose of avoiding the provisions of this chapter.

4. Persons dealing solely in the sale and distribution of funeral vehicles, including motor vehicles

adapted therefor; however, this exemption shall not exempt any person from the provisions of §§ 46.2-1519, 46.2-1520, and 46.2-1548.

5. Any financial institution chartered or authorized to do business under the laws of the Commonwealth or the United States which may have received title to a motor vehicle in the normal course of its business by reason of a foreclosure, other taking, repossession, or voluntary reconveyance to that institution occurring as a result of any loan secured by a lien on the vehicle.

6. An employee of an organization arranging for the purchase or lease by the organization of vehicles for use in the organization's business.

7. Any person licensed to sell real estate who sells a manufactured home or similar vehicle in conjunction with the sale of the parcel of land on which the manufactured home or similar vehicle is located.

8. Any person who permits the operation of a motor vehicle show or permits the display of motor vehicles for sale by any motor vehicle dealer licensed under this chapter.

9. An insurance company authorized to do business in the Commonwealth that sells or disposes of vehicles under a contract with its insured in the regular course of business.

10. Any publication, broadcast, or other communications media when engaged in the business of advertising, but not otherwise arranging for the sale of vehicles owned by others.

11. Any person dealing solely in the sale or lease of vehicles designed exclusively for off-road use.

12. Any credit union authorized to do business in Virginia, provided the credit union does not receive a commission, money, or other thing of value directly from a motor vehicle dealer.

13. Any person licensed as a manufactured home dealer, broker, manufacturer, or salesperson under Chapter 4.2 (§ 36-85.16 et seq.) of Title 36.

14. The State Department of Social Services or local departments of social services.

15. Any person dealing solely in the sale and distribution of utility or cargo trailers that have unloaded weights of 3,000 pounds or less; however, this exemption shall not exempt any person who deals in stock trailers or watercraft trailers.

For the purposes of Article 7 (§ 46.2-1566 et seq.), "dealer" does not include recreational vehicle dealers, trailer dealers, watercraft trailer dealers, or motorcycle dealers.

"Motor vehicle salesperson" or "salesperson" means (i) any person who is hired as an employee by a motor vehicle dealer to sell or exchange motor vehicles and who receives or expects to receive a commission, fee, or any other consideration from the dealer; (ii) any person who supervises salespersons employed by a motor vehicle dealer, whether compensated by salary or by commission; (iii) any person, compensated by salary or commission by a motor vehicle dealer, who negotiates with or induces a customer to enter into a security agreement on behalf of a dealer; or (iv) any person who is licensed as a motor vehicle dealer and who sells or exchanges motor vehicles. For purposes of this section, any person who is an independent contractor as defined by the United States Internal Revenue Code shall be deemed not to be a motor vehicle salesperson.

"Motor vehicle show" means a display of motor vehicles to the general public at a location other than a dealer's location licensed under this chapter where the vehicles are not being offered for sale or exchange during or as part of the display.

"New motor vehicle" means any vehicle, *excluding trailers,* that is in the possession of the manufacturer, factory branch, distributor, distributor branch, or motor vehicle dealer and for which an original title has not been issued by the Department ~~of Motor Vehicles of the Commonwealth~~ or by the issuing agency of any other state and has less than 7,500 miles accumulated on its odometer.

"New trailer" means any trailer that (i) has not been previously sold except in good faith for the purpose of resale; (ii) has not been used as a rental, driver education, or demonstration trailer or for the personal or business transportation of the manufacturer, distributor, dealer, or any of its employees; (iii) has not been used except for limited use necessary in moving or road testing the trailer prior to delivery to a customer; (iv) is transferred by a certificate of origin; and (v) has the manufacturer's certification that it conforms to all applicable federal trailer safety and emission standards. Notwithstanding clauses (i) and (iii), a trailer that has been previously sold but not titled shall be deemed a new trailer if it meets the requirements of clauses (ii), (iv), and (v).

"Original license" means a motor vehicle dealer license issued to an applicant who has never been licensed as a motor vehicle dealer in Virginia or whose Virginia motor vehicle dealer license has been expired for more than 30 days.

"Recreational vehicle" or "RV" means a vehicle that (i) is either self-propelled or towed by a consumer-owned tow vehicle, (ii) is primarily designed to provide temporary living quarters for recreational, camping, or travel use; and (iii) complies with all applicable federal vehicle regulations and does not require a special movement permit to legally use the highways. Recreational vehicle includes motor homes, travel trailers, and camping trailers.

"Relevant market area" means as follows:

1. ~~In~~ *For motor vehicle dealers except motorcycle dealers, in* metropolitan localities~~,~~ the relevant market area shall be a circular area around an existing franchised dealer with a population of 250,000, not to exceed a radius of 10 miles, but in no case less than seven miles.

2. ~~If~~ *For motor vehicle dealers except motorcycle dealers, if* the population in ~~an~~ *a circular* area within a radius of 10 miles around an existing franchised dealer is less than 250,000, but the population in an area within a radius of 15 miles around an existing franchised dealer is 150,000 or more, the relevant market area shall be that *circular* area within the 15-mile radius.

3. ~~In~~ *For motor vehicle dealers except motorcycle dealers, in* all other cases the relevant market area shall be ~~an~~ *a circular* area within a radius of 20 miles around an existing franchised dealer or the area of responsibility defined in the franchise, whichever is greater. In any case where the franchise agreement is silent as to area of responsibility, the relevant market area shall be the greater of ~~an~~ *a circular* area within a radius of 20 miles around an existing franchised dealer or that area in which the franchisor otherwise requires the franchisee to make significant retail sales or sales efforts.

4. For motorcycle dealers, the relevant market area shall be a circular area within a radius of 20 miles around an existing franchised dealer location with a population of one million or more. If the population within a 20-mile radius is less than one million but greater than 750,000, the relevant market area shall be a circular area within a radius of 30 miles. If the population within a 30-mile radius is less than 750,000, the relevant market area shall be a circular area within a radius of 40 miles.

Notwithstanding the foregoing provision of this section, in the case of dealers in motor vehicles with gross vehicle weight ratings of 26,000 pounds or greater, *excluding recreational vehicles,* the relevant market area with respect to the dealer's franchise for all such vehicles shall be a circular area around an existing franchised dealer with a radius of 25 miles, except where the population in such circular area is less than 250,000, in which case the relevant market area shall be a circular area around an existing franchised dealer with a radius of 50 miles, or the area of responsibility defined in the franchise, whichever is greater.

In determining population for ~~this definition~~ *relevant market areas,* the most recent census by the U.S. Bureau of the Census or the most recent population update, either from the National Planning Data Corporation or other similar recognized source, shall be accumulated for all census tracts either wholly or partially within the relevant market area.

"Retail installment sale" means every sale of one or more motor vehicles to a buyer for his use and not for resale, in which the price of the vehicle is payable in one or more installments and in which the seller has either retained title to the goods or has taken or retained a security interest in the goods under form of contract designated either as a security agreement, conditional sale, bailment lease, chattel mortgage, or otherwise.

"Sale at retail" or "retail sale" means the act or attempted act of selling, bartering, exchanging, or otherwise disposing of a motor vehicle to a buyer for his personal use and not for resale.

"Sale at wholesale" or "wholesale" means a sale to motor vehicle dealers or wholesalers other than to consumers; a sale to one who intends to resell.

"Semitrailer" means every vehicle of the trailer type so designed and used in conjunction with another motor vehicle that some part of its own weight and that of its own load rests on or is carried by another vehicle.

"Tractor truck" means every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the load and weight of the vehicle attached thereto.

"Trailer" means every vehicle without motive power designed for carrying property or passengers wholly on its own structure and for being drawn by another motor vehicle, including semitrailers but not manufactured homes, watercraft trailers, camping trailers, or travel trailers.

"Travel trailer" means a vehicle designed to provide temporary living quarters for recreational, camping, or travel use of such size or weight so as not to require a special highway movement permit when towed by a consumer-owned tow vehicle.

"Used motor vehicle" means any vehicle other than a new motor vehicle as defined in this section.

"Watercraft trailer" means any new or used trailer specifically designed to carry a watercraft or a motorboat and purchased, sold, or offered for sale by a watercraft dealer licensed under Chapter 8 (§ 29.1-800 et seq.) of Title 29.1.

"Watercraft trailer dealer" means any watercraft dealer licensed under Chapter 8 (§ 29.1-800 et seq.) of Title 29.1.

"Wholesale auction" means an auction of motor vehicles restricted to sales at wholesale.

§ 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~~ *shall* 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~~ *Ten* 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 franchised dealers appointed to the Board shall be a licensed franchised motorcycle dealer who is primarily engaged in the sale of new motorcycles.* One of the independent dealers appointed to the Board shall be a licensed ~~motor vehicle~~ *independent motorcycle* dealer ~~primarily engaged in the business of renting vehicles~~, and one shall be a licensed independent dealer ~~primarily engaged in the motor vehicle salvage~~ *who is also an independent trailer or recreational vehicle dealer or engaged in the rental vehicle* business. ~~Two members~~ *One member* shall be ~~individuals~~ *an individual* who ~~have~~ *has* no direct or indirect interest, other than as ~~consumers~~ *a consumer*, 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~~ 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~~ or his designee shall be an ex officio voting 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.

§ 46.2-1504. Board's powers with respect to hearings under this chapter.

The Board may, in hearings arising under this chapter, except as provided for in ~~Article~~ *Articles* 7 (§ 46.2-1566 et seq.)*, 7.2 (§ 46.2-1573.2 et seq.), 7.3 (§ 46.2-1573.13 et seq.), and 7.4 (§ 46.2-1573.25 et seq.)*, determine the place in the Commonwealth where they shall be held; subpoena witnesses; take depositions of witnesses residing outside the Commonwealth in the manner provided for in civil actions in courts of record; pay these witnesses the fees and mileage for their attendance as is provided for witnesses in civil actions in courts of record; and administer oaths.

§ 46.2-1505. Suit to enjoin violations.

A. The Board, whenever it believes from evidence submitted to the Board that any person has been violating, is violating, or is about to violate any provision of this chapter, in addition to any other remedy, may bring an action in the name of the Commonwealth to enjoin any violation of this chapter.

B. Any manufacturer, factory branch, distributor, distributor branch, or factory or distributor representative who obtains a license under this chapter is engaged in business in the Commonwealth and is subject to the jurisdiction of the courts of the Commonwealth. Any manufacturer, factory branch, distributor, distributor branch, or factory or distributor representative of motorcycles of a recognized line-make that are sold or leased in the Commonwealth pursuant to a plan, system, or channel of distribution established, approved, authorized, or known to the manufacturer shall be subject to the jurisdiction of the courts of the Commonwealth in any action seeking relief under or to enforce any of the remedies or penalties provided for in this chapter.

§ 46.2-1508. Licenses required; penalty.

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~~ *from the Department. 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. Every person licensed as a watercraft dealer under Chapter 8 (§ 29.1-800 et seq.) of Title 29.1 and who offers for sale watercraft trailers shall obtain a certificate of dealer registration as provided in this chapter but shall not be required to obtain a dealer license unless he also sells other types of trailers.* Any nonprofit organization exempt from taxation under § ~~501 (c)(3)~~ *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 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~~ *this chapter*. 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 new motor 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.

Notwithstanding the provisions of subsection A, a manufacturer, factory branch, distributor, distributor branch, or factory or distributor representative engaged in the manufacture or distribution of all-terrain vehicles or off-road motorcycles that does not also manufacture or distribute in the Commonwealth any motorcycle designed for lawful use on the public highways shall not be required to obtain a license from the Department.

§ 46.2-1509. Application for license or certificate of dealer registration.

Application for license or certificate of dealer registration under this chapter shall be made to the Board and contain such information as the Board shall require. *Such information shall include whether the applicant will be seeking a license to sell cars, trucks, motorcycles, recreational vehicles, or trailers and whether such vehicles will be new or used. The Board shall maintain a record of this information and place the appropriate endorsement on any license issued under this chapter.* The application shall be accompanied by the fee as required by the Board.

The Board shall *also* require, in the application or otherwise, information relating to the matters set forth in § 46.2-1575 as grounds for refusing licenses, certificates of dealer registration, and to other pertinent matters requisite for the safeguarding of the public interest, including, if the applicant is a dealer in new motor vehicles with factory warranties, a copy of a current service agreement with the manufacturer or with the distributor, requiring the applicant to perform within a reasonable distance of his established place of business, the service, repair, and replacement work required of the manufacturer or distributor by such vehicle warranty. All of these matters shall be considered by the Board in determining the fitness of the applicant to engage in the business for which he seeks a license or certificate of dealer registration.

§ 46.2-1510. Dealers required to have established place of business.

No license shall be issued to any motor vehicle dealer unless he has an established place of business, owned or leased by him, where a substantial portion of the sales activity of the business is routinely conducted and which:

1. Satisfies all local zoning regulations;

2. Has sales, service, and office space devoted exclusively to the dealership of at least 250 square feet in a permanent, enclosed building not used as a residence;

3. Houses all records the dealer is required to maintain by § 46.2-1529;

4. Is equipped with a desk, chairs, filing space, a working telephone listed in the name of the dealership, working utilities including electricity and provisions for space heating, and~~, on and after July 1, 2013,~~ an Internet connection and email address;

5. Displays a sign and business hours as required by this chapter; and

6. Has contiguous space designated for the exclusive use of the dealer adequate to permit the display of at least 10 vehicles.

Any dealer licensed on or before July 1, 1995, shall be considered in compliance with subdivisions 2 and 6 of this section for that licensee.

§ 46.2-1511. Dealer-operator to have certificate of qualification.

A. No license shall be issued to any franchised motor vehicle dealer or any independent motor vehicle dealer owned by a franchised motor vehicle dealer or its dealer-operator and operated by the dealer-operator of a franchised motor vehicle dealer unless the dealer-operator holds a valid certificate of qualification issued by the Board. Such certificate shall be issued only on application to the Board, payment of an application fee of no more than $50 as determined by the Board, the successful completion of an examination prepared and administered by the Board, and other prerequisites as set forth in this subsection. However, any individual who is the dealer-operator of a licensed dealer on July 1, 1995, shall be entitled to such a certificate without examination on application to the Board made on or before January 1, 1996.

The Board may establish minimum qualifications for applicants and require applicants to satisfactorily complete courses of study or other prerequisites prior to taking the examination.

B. No license shall be issued to any independent motor vehicle dealer, except as permitted in subsection A, unless the dealer-operator holds a valid certificate of qualification issued by the Board.

Such certificate shall be issued only on application to the Board, payment of an application fee of no more than $50, as determined by the Board, the successful completion of an examination approved by the Board, and other prerequisites as set forth in this subsection. The Board may establish minimum qualifications for applicants and~~, on and after January 1, 2006,~~ shall require applicants for an original independent dealer-operator certificate of qualification to be issued pursuant to this subsection to satisfactorily complete a course of study prior to taking the examination. The Board shall develop the course curriculum and set course fees and may approve qualified persons to prepare and present such courses and to administer the examination. This subsection shall not be subject to the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

§ 46.2-1512. Salesperson to have certificate of qualification.

No license shall be issued to any motor vehicle salesperson unless he holds a valid certificate of qualification issued by the Board. A certificate shall be issued only on application to the Board, payment of the required application fee of no more than ~~fifty dollars~~ *$50* as determined by the Board, the successful completion of an examination prepared and administered by the Board, and other prerequisites as set forth in this section. Any individual who is licensed as a salesperson on July 1, 1995, shall be entitled to such a certificate without examination on application to the Board made on or before January 1, 1996.

The Board may establish minimum qualifications for applicants and require applicants to satisfactorily complete courses of study or other prerequisites prior to taking the examination.

§ 46.2-1515. Location to be specified; display of license; change of location.

The licenses of motor vehicle dealers, *manufacturers, factory branches, distributors, and distributor branches* shall specify the location of each place of business, branch, or other location occupied or to be occupied by the licensee in conducting his business, and the license issued therefor shall be conspicuously displayed at each of the premises. In the event any licensee intends to change a licensed location, he shall provide the *Department, or in the case of motor vehicle dealers, the* Board ~~thirty-days'~~, *30 days'* advance written notice and a successful inspection of the new location shall be required prior to approval of a change of location. The *Department or* Board shall endorse the change of location on the license, without charge, if the new location is within the same county or city. A change in location to another county or city shall require a new license and fee.

§ 46.2-1516. Supplemental sales locations.

The Board may issue a license for a licensed motor vehicle dealer to display for sale or sell vehicles at locations other than his established place of business, subject to compliance with local ordinances and requirements. A license issued pursuant to this section shall not be required for a licensed motor vehicle dealer to display for sale or sell vehicles at wholesale auction; placing vehicles for sale at a wholesale auction shall not be considered a consignment.

A permanent supplemental license may be issued for premises less than 500 yards from the dealer's established place of business, provided a sign is displayed as required for the established place of business. A supplemental license shall not be required for premises otherwise contiguous to the established place of business except for a public thoroughfare.

A temporary supplemental license may be issued for a period not to exceed seven days, *or 14 days for trailers and motorcycles,* provided that the application is made 15 days prior to the sale. The Board shall not issue a temporary supplemental license *(i)* for the same jurisdiction for a consecutive seven-day period *or (ii) for motorcycles for a consecutive 14-day period*. The Board shall not issue more than eight supplemental licenses per year to any licensed motor vehicle dealer.

A temporary supplemental license for the sale of new motor vehicles may be issued only for locations within the dealer's area of responsibility, as defined in his franchise or sales agreement, unless proof is provided that all dealers in the same line-make in whose areas of responsibility, as defined in their franchise or sales agreements, where the temporary supplemental license is sought do not oppose the issuance of the temporary license.

A temporary supplemental license for sale of used motor vehicles may be issued only for the county, city, or town in which the dealer is licensed pursuant to § 46.2-1510, or for a contiguous county, city, or town. Temporary licenses may be issued without regard to the foregoing geographic restrictions where the dealer operating under a temporary license provides notice by certified mail, at least 30 days before any proposed sale under a temporary license, to all other dealers licensed in the jurisdiction in which the sale will occur of the intent to conduct a sale and permits any locally licensed dealer who wishes to do so to participate in the sale on the same terms as the dealer operating under the temporary license. Any locally licensed dealer who chooses to participate in the sale must obtain a temporary supplemental license for the sale pursuant to this section. The dealer operating under a temporary license shall provide to the Board a copy of the notice required under this section and a list of the dealers to whom the notice was distributed.

A temporary supplemental license may be issued for the sale of boat trailers at a boat show. Any

such license shall be valid for no more than 14 days. Application for such a license shall be made and such license obtained prior to the opening of the show. Temporary supplemental licenses for sale of boat trailers at boat shows may be issued for any boat show located anywhere in the Commonwealth without notification of or approval by other boat trailer dealers.

§ 46.2-1518. Display of salesperson's license; notice on termination.

No salesperson shall be employed by more than one dealer, unless the dealers are owned by the same person.

Each dealer shall post and maintain in a place conspicuous to the public a list of salespersons employed.

Each salesperson, *factory representative, and distributor representative* shall carry his license when engaged in his business and shall display it on request.

Each dealer shall notify the Board in writing not later than the tenth day following the month of the termination of any licensed salesperson's employment. In lieu of written notification, the license of the terminated salesperson may be returned to the Board annotated "terminated" on the face of the license and signed and dated by the dealer-operator, owner, or officer.

§ 46.2-1519. 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 determined by the Board, subject to the following:

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

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

3. For motor vehicle dealers licensed in other states, but not in ~~Virginia~~ *the Commonwealth, who sell motor vehicles at wholesale auctions,* not more than $100.

4. For manufactured home dealers, not more than $100.

5. For watercraft trailer dealers, not more than $100.

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

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.

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

D. No nonprofit organization granted a certificate pursuant to subsection B of § 46.2-1508.1 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 Board may authorize discounts and other incentives to encourage licensees to conduct transactions with the Board (i) by means of electronic technologies and (ii) for multi-year periods.

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

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

H. The fee for each license and registration year or part thereof for each motor vehicle manufacturer, factory branch, distributor, and distributor branch shall be $100 and shall be paid to the Department.

§ 46.2-1521. Issuance, expiration, and renewal of licenses and certificates of registration.

A. All licenses and certificates of registration issued under this chapter shall be issued for a period of 12 consecutive months except, at the discretion of the ~~Board~~ *issuing agency*, the periods may be adjusted as is necessary to distribute the licenses and certificates as equally as practicable on a monthly basis. The expiration date shall be the last day of the twelfth month of validity or the last day of the designated month. Every license and certificate of registration shall be renewed annually on application by the licensee or registrant and by payment of fees required by law, the renewal to take effect on the first day of the succeeding month.

B. Licenses and certificates of registration issued under this chapter shall be deemed not to have expired if the renewal application and required fees as set forth in this subsection are received by the ~~Board~~ *issuing agency* or postmarked not more than 30 days after the expiration date of such license or certificate of registration. Whenever the renewal application is received by the ~~Board~~ *issuing agency* or postmarked no more than 30 days after the expiration date of such license or certificate of registration, the license fees shall be 150 percent of the fees provided for in § 46.2-1519.

C. For dealers and salespersons who have served outside of the United States in the armed services of the United States, licenses and certificates issued under this chapter shall be deemed not to have expired if the renewal application and required fees as set forth in § 46.2-1519 are received by the ~~Board~~ *issuing agency* or postmarked not more than 60 days from the date they are no longer serving outside the United States and they have:

1. Held a valid license or certificate issued by the ~~Board~~ *issuing agency* at the time the person began

service in the armed forces outside of the United States;

2. Not performed sales activities during the period of the person's military service; and

3. Submitted to the ~~Board~~ *issuing agency* orders or other military documentation demonstrating that they have served outside of the United States in the armed services of the United States and it has been less than 61 days from the date they are no longer serving outside the United States.

Prior to renewing a license or certificate under this subsection, the applicant shall notify the ~~Board~~ *issuing agency* of their intentions and verify that they are in compliance with all other requirements established by the ~~Board~~ *issuing agency* and set forth in this title.

D. The ~~Board~~ *issuing agency* may offer an optional multiyear license. When such option is offered and chosen by the licensee, all annual and 12-month fees due at the time of licensing shall be multiplied by the number of years or fraction thereof for which the license will be issued.

E. The Board may issue a salesperson's license to an applicant, as required by § 46.2-1508, even though the applicant is not employed by a motor vehicle dealer if (i) the applicant has been certified pursuant to § 46.2-1512 and is employed by a person that has contracted in writing with a dealer or dealers to provide temporary personnel for the sale of products and services to include but not be limited to providing payment, financing and leasing alternatives; and offering and selling extended service agreements, prepaid maintenance agreements, and similar products and services that are sold in connection with the sale of a vehicle; provided, however, that such persons do not negotiate for the sale of the vehicle but may complete the required paperwork for the sale of the vehicle in addition to the other products and services being offered or to provide training to salespersons employed by a dealer, and (ii) the applicant meets the other qualifications to be licensed as a salesperson under this chapter. The requirements of §§ 46.2-1518 and 46.2-1537 shall not apply to any such salesperson so licensed, provided that any salesperson so licensed:

1. May only act as a salesperson for a dealer who has a contract with the salesperson's employer as provided in this subsection;

2. Shall carry his license when engaged in business and shall display it upon request; and

3. Need not be the person who signs the buyer's order on behalf of the dealer, but the name of that salesperson shall be listed on the buyer's order in any transaction in which the salesperson engages.

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

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

B. Every applicant renewing a motor vehicle dealer's license shall pay, in addition to other license fees, an annual Fund fee of $100, and every applicant for a motor vehicle salesperson's license shall pay, in addition to other license fees, an annual Fund fee of $10, prior to license issue. However, annual Fund renewal fees from salespersons shall not exceed $100 per year from an individual dealer. These fees shall be deposited in the Motor Vehicle Transaction Recovery Fund. *Any salesperson licensed by the Department and having never paid such a fee prior to July 1, 2015, shall be exempt from this subsection.*

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

D. In addition to the $350 annual fee, applicants for an original dealer's license shall have a $50,000 bond pursuant to § 46.2-1527.2 for three consecutive years. Only those renewing licensees who have not been the subject of a claim against their bond or against the Fund for three consecutive years shall pay the annual $100 fee and will no longer be required to pay the $350 annual fee or hold the $50,000 bond. *Any salesperson licensed by the Department and having never paid such fee prior to July 1, 2015 shall be exempt from this subsection.*

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

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

G. The provisions of this section shall not apply to manufactured home dealers ~~as defined in~~

~~§ 36-85.16, T&M vehicle dealers as defined in § 46.2-1900, trailer dealers as defined in § 46.2-1992, motorcycle dealers as defined in § 46.2-1993, and~~ *or* nonprofit organizations issued certificates pursuant to subsection B of § 46.2-1508.1.

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

I. The provisions of this article shall not apply to any recreational vehicle, trailer, or motorcycle dealer licensed by the Department prior to July 1, 2015.

§ 46.2-1527.2. Bonding requirements for applicants for an original license.

Before the Board shall issue to an applicant an original license, the applicant shall obtain and file with the Board a bond in the amount of $50,000. The bond shall come from a corporate surety licensed to do business in the Commonwealth and approved by the Attorney General. The bond shall be conditioned on a statement by the applicant that the applicant will not practice fraud, make any fraudulent representation, or violate any provision of this chapter in the conduct of the applicant's business. The Board may, without holding a hearing, suspend the dealer's license during the period that the dealer does not have a sufficient bond on file.

If a person suffers any of the following: (i) loss or damage in connection with the purchase or lease of a motor vehicle by reason of fraud practiced on him or fraudulent representation made to him by a licensed motor vehicle dealer or one of the dealer's salespersons acting within his scope of employment, (ii) loss or damage by reason of the violation by a dealer or salesperson of any provision of this chapter in connection with the purchase or lease of a motor vehicle, or (iii) loss or damage resulting from a breach of an extended service contract *as defined by § 59.1-435* entered into on or after ~~the effective date of this act~~ *April 8, 1994*, ~~as defined by § 59.1-435~~, that person shall have a claim against the dealer and the dealer's bond, and may recover such damages as may be awarded to such person by final judgment of a court of competent jurisdiction against the dealer as a proximate result of such loss or damage up to but not exceeding $25,000, from such surety, who shall be subrogated to the rights of such person against the dealer or salesperson. The liability of such surety shall be limited to actual damages and attorney fees~~,~~ and shall not include any punitive damages assessed against the dealer or salesperson. ~~Effective January 1, 2013, and on~~ *On* January 1 of each year ~~thereafter~~, the amount ~~which~~ *that* may be awarded against such bond to any person as a result of loss or damage to that person as provided in this section shall be increased by the percentage increase over the most recently available unadjusted 12-month period in the Consumer Price Index for used ~~cars and trucks~~ *motor vehicles*, as published by the U.S. Bureau of Labor Statistics or any successor index. In the event that this index decreases over any such 12-month period, there shall be no change in the amount that may be awarded.

In those cases in which a dealer's surety shall be liable pursuant to this section, the surety shall be liable only for the first $50,000 in claims against the dealer. Thereafter, the Fund shall be liable for amounts in excess of the bond up to the amount that may be paid out of the Fund, less the amount of the bond, in those cases in which the Fund itself may be liable. The aggregate liability of the dealer's surety to any and all persons, regardless of the number of claims made against the bond or the number of years the bond remains in force, shall in no event exceed $50,000.

The dealer's surety shall notify the Board when a claim is made against a dealer's bond, when a claim is paid and when the bond is cancelled. Such notification shall include the amount of a claim and the circumstances surrounding the claim. Notification of cancellation shall include the effective date and reason for cancellation. The bond may be cancelled as to future liability by the dealer's surety upon 30 days' notice to the Board.

§ 46.2-1527.3. Recovery from Fund, generally.

Except as otherwise provided in this chapter, whenever any person is awarded a final judgment in a court of competent jurisdiction in the Commonwealth for (i) any loss or damage in connection with the purchase or lease of a motor vehicle by reason of any fraud practiced on him or fraudulent representation made to him by a licensed or registered motor vehicle dealer participating in the Motor Vehicle Transaction Recovery Fund or one of a dealer's salespersons acting for the dealer or within the scope of his employment or (ii) any loss or damage by reason of the violation by a dealer or salesperson participating in the Motor Vehicle Transaction Recovery Fund of any of the provisions of this chapter ~~in connection with the purchase of a motor vehicle on or after January 1, 1989, or the lease of a motor vehicle on or after October 1, 1998~~, the judgment creditor may file a verified claim with the Board, requesting payment from the Fund of the amount unpaid on the judgment subject to the following conditions:

1. The claim shall be filed with the Board no sooner than 30 days and no later than 12 months after the judgment becomes final along with the evidence of compliance with subdivision 3 below.

2. The Board shall consider for payment claims submitted by retail purchasers of motor vehicles, and

for purchases of motor vehicles by licensed or registered motor vehicle dealers who contribute to the Fund. The Board shall also consider for payment claims submitted by lessees of motor vehicles leased ~~on or after October 1, 1998,~~ from licensed or registered motor vehicle dealers who contribute to the Fund.

3. If the final judgment from a court of competent jurisdiction includes, as part of the judgment, an award of attorney fees and court costs, the Fund may include those in its payment of the claim if (i) the claimant had previously submitted to the trial court a detailed and itemized affidavit by counsel for the judgment creditor seeking such fees and costs, including a breakdown of the hours worked and the subject matter of those hours; (ii) said itemized affidavit formed the basis of the court's award of such fees; and (iii) a copy of such affidavit is provided to the Board with the judgment creditor's claim. If the award of attorney fees and costs by the trial court was not based on a detailed and itemized affidavit from counsel for the judgment creditor with a breakdown of the hours worked, then the Board may review and limit any claim for attorney fees to those attorney fees directly attributable to that portion of the final judgment that is determined to be a compensable claim by the Board against the Fund, and the Board may require a detailed itemization from counsel before considering such claim for attorney fees.

§ 46.2-1527.5. Limitations on recovery from Fund.

The maximum claim of one judgment creditor against the Fund based on an unpaid final judgment arising out of any loss or damage by reason of a claim submitted under § 46.2-1527.2 or 46.2-1527.3 involving a single transaction shall be limited to $25,000, including any amount paid from the dealer's surety bond, regardless of the amount of the unpaid final judgment of one judgment creditor. ~~Effective January 1, 2013, and on~~ *On* January 1 of each year ~~thereafter~~, the amount that may be awarded to any person as a result of loss or damage to that person as provided in this section shall be increased by the percentage increase over the most recently available unadjusted 12-month period in the Consumer Price Index for used ~~cars and trucks~~ *motor vehicles*, as published by the U.S. Bureau of Labor Statistics or any successor index. In the event that this index decreases over any such 12-month period, there shall be no change in the amount which may be awarded.

The aggregate of claims against the Fund based on unpaid final judgments arising out of any loss or damage by reason of a claim submitted under § 46.2-1527.3 involving more than one transaction shall be limited to four times the amount that may be awarded to a single judgment creditor, regardless of the total amounts of the unpaid final judgments of judgment creditors.

However, aggregate claims against the Fund under § 46.2-1527.2 shall be limited to the amount that may be paid out of the Fund under the preceding paragraph less the amount of the dealer's bond and then only after the dealer's bond has been exhausted.

If a claim has been made against the Fund, and the Board has reason to believe that there may be additional claims against the Fund from other transactions involving the same licensee or registrant, the Board may withhold any payment from the Fund involving the licensee or registrant for a period not to exceed the end of the relevant license or registration period. After this period, if the aggregate of claims against the licensee or registrant exceeds the aggregate amount that may be paid from the Fund under this section, then such amount shall be prorated among the claimants and paid from the Fund in proportion to the amounts of their unpaid final judgments against the licensee or registrant.

However, claims against motor vehicle dealers and salespersons participating in the Motor Vehicle Transaction Recovery Fund pursuant to § 46.2-1527.2 shall be prorated when the aggregate exceeds $50,000. Claims shall be prorated only after the dealer's $50,000 bond has been exhausted.

On receipt of a verified claim filed against the Fund, the Board shall forthwith notify the licensee or registrant who is the subject of the unpaid judgment that a verified claim has been filed and that the licensee or registrant should satisfy the judgment debt. If the judgment debt is not fully satisfied 30 days following the date of the notification by the Board, the Board shall make payment from the Fund subject to the other limitations contained in this article.

Excluded from the amount of any unpaid final judgment on which a claim against the Fund is based shall be any sums representing (i) interest, (ii) punitive damages, and (iii) exemplary damages. Awards from the Fund shall be limited to reimbursement of costs paid to the dealer for all charges related to the vehicle including without limitation, the sales price, taxes, insurance, and repairs; other out of pocket costs related to the purchase, insuring and registration of the vehicle, and to the loss of use of the vehicle by the purchaser.

If at any time the Fund is insufficient to fully satisfy any claims or claim filed with the Board and authorized by this article, the Board shall pay such claims, claim, or portion thereof to the claimants in the order that the claims were filed with the Board. However, claims by retail purchasers shall take precedence over other claims.

§ 46.2-1527.10. Recovery on bond.

With respect to a motor vehicle dealer electing continuous bonding under § 46.2-1527.9, whenever any person is awarded a final ~~judgement~~ *judgment* in a court of competent jurisdiction in the

Commonwealth against the dealer for (i) any loss or damage in connection with the purchase or lease of a motor vehicle by reason of fraud practiced on him or fraudulent representation made to him by the dealer or one of the dealer's salespersons acting within the scope of his employment, (ii) any loss or damage by reason of the violation by the dealer or salesperson of any provision of this chapter in connection with the purchase or lease of a motor vehicle, or (iii) any loss or damage resulting from a breach of an extended service contract, as defined in § 59.1-435, entered into on or after July 1, 2003, the ~~judgement~~ *judgment* creditor shall have a claim against the dealer bond for such damages as may be awarded such person in final ~~judgement~~ *judgment* and unpaid by the dealer, and may recover such unpaid damages up to but not exceeding the maximum liability of the surety as set forth in § 46.2-1527.9 from the surety who shall be subrogated to the rights of such person against the dealer or salesperson. The liability of such surety shall be limited to actual damages and ~~attorneys'~~ *attorney* fees assessed against the dealer or salesperson as part of the underlying ~~judgement~~ *judgment* but this section does not authorize the award of ~~attorneys'~~ *attorney* fees in the underlying ~~judgement~~ *judgment*. The liability of such surety shall not include any sums representing interest or punitive or exemplary damages assessed against the dealer or salesperson.

The dealer's surety shall notify the Board when a claim is made against a dealer's bond, when a claim is paid, and when the bond is cancelled. Such notification shall include the amount of claim and the circumstances surrounding the claim. Notification of cancellation shall include the effective date and reason for cancellation. The bond may be cancelled as to future liability by the dealer's surety upon 30 days' notice to the Board.

§ 46.2-1529. Dealer records.

All dealer records regarding employees; lists of vehicles in inventory for sale, resale, or on consignment; vehicle purchases, sales, trades, and transfers of ownership; collections of taxes; titling, uninsured motor vehicle, and registration fees; odometer disclosure statements; records of permanent dealer registration plates assigned to the dealer and temporary transport plates and temporary certificates of ~~ownership~~ *registration*; proof of safety inspections performed on vehicles sold at retail; and other records required by the Department or the Board shall be maintained on the premises of the licensed location. The Board may, on written request by a dealer, permit his records to be maintained at a location other than the premises of the licensed location for good cause shown. All dealer records shall be preserved in original form or in film, magnetic, or optical media ~~(~~, including ~~but not limited to~~ microfilm, microfiche, or other electronic media~~)~~, for a period of five years in a manner that permits systematic retrieval. Certain records may be maintained on a computerized record-keeping system with the prior approval of the Board.

§ 46.2-1529.1. Sales of used motor vehicles by dealers; disclosures; penalty.

A. If, in any retail sale by a dealer of a used motor vehicle of under 6,000 pounds gross vehicle weight for use on the public highways, and normally used for personal, family or household use, the dealer offers an express warranty, the dealer shall provide the buyer a written disclosure of this warranty. The written disclosure shall be the Buyer's Guide required by federal law, shall be completely filled out and, in addition, signed and dated by the buyer and incorporated as part of the buyer's order.

B. A dealer may sell a used motor vehicle at retail "AS IS" and exclude all warranties only if the dealer provides the buyer, prior to sale, a separate written disclosure as to the effect of an "AS IS" sale. The written disclosure shall be conspicuous and contained on the front of the buyer's order and printed in not less than bold, ~~ten-point~~ *10-point* type and signed by the buyer: "I understand that this vehicle is being sold "AS IS' with all faults and is not covered by any dealer warranty. I understand that the dealer is not required to make any repairs after I buy this vehicle. I will have to pay for any repairs this vehicle will need." A fully completed Buyer's Guide, as required by federal law, shall be signed and dated by the buyer and incorporated as part of the buyer's order.

C. Failure to provide the applicable disclosure required by subsection A or B ~~of this section~~ shall be punishable by a civil penalty of no more than $1,000. Any such civil penalty shall be paid into the general fund of the state treasury. Furthermore, if the applicable disclosure required by subsection A or B ~~of this section~~ is not provided as required in this section, the buyer may cancel the sale within ~~thirty~~ *30* days. In this case, the buyer 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, less any damage to the vehicle incurred while ownership was vested in the purchaser, and less a reasonable amount for the 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. Notice of the provisions of this subsection shall be included as part of every disclosure made under subsection A or B ~~of this section~~.

D. The provisions of this section shall not apply to motorcycles, trailers, or travel trailers.

§ 46.2-1530. Buyer's order.

A. Every motor vehicle dealer shall complete, in duplicate, a buyer's order for each sale or exchange of a motor 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 five years in accordance with § 46.2-1529, 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 motor 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.

8. The amount of any sales and use tax, title fee, uninsured motor vehicle fee, registration fee, purchaser's ~~on-line~~ *online* systems filing 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~~ *does* not include any "purchaser's ~~on-line~~ *online* systems filing fee," as defined in § 46.2-1530.1, or any "dealer's manual transaction fee," as defined in § 46.2-1530.2.

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

12. If the dealer delivers to the customer a vehicle purchased by the customer on or after July 1, 2010, that is conditional on dealer-arranged financing, the following notice, printed in bold type no less than 10 point: "IF YOU ARE FINANCING THIS VEHICLE, PLEASE READ THIS NOTICE: YOU ARE PROPOSING TO ENTER INTO A RETAIL INSTALLMENT SALES CONTRACT WITH THE DEALER. PART OF YOUR CONTRACT INVOLVES FINANCING THE PURCHASE OF YOUR VEHICLE. IF YOU ARE FINANCING THIS VEHICLE AND THE DEALER INTENDS TO TRANSFER YOUR FINANCING TO A FINANCE PROVIDER SUCH AS A BANK, CREDIT UNION OR OTHER LENDER, YOUR VEHICLE PURCHASE DEPENDS ON THE FINANCE PROVIDER'S APPROVAL OF YOUR PROPOSED RETAIL INSTALLMENT SALES CONTRACT. IF YOUR RETAIL INSTALLMENT SALES CONTRACT IS APPROVED WITHOUT A CHANGE THAT INCREASES THE COST OR RISK TO YOU OR THE DEALER, YOUR PURCHASE CANNOT BE CANCELLED. IF YOUR RETAIL INSTALLMENT SALES CONTRACT IS NOT APPROVED, THE DEALER WILL NOTIFY YOU VERBALLY OR IN WRITING. YOU CAN THEN DECIDE TO PAY FOR THE VEHICLE IN SOME OTHER WAY OR YOU OR THE DEALER CAN CANCEL YOUR PURCHASE. IF THE SALE IS CANCELLED, YOU NEED TO RETURN THE VEHICLE TO THE DEALER WITHIN 24 HOURS OF VERBAL OR WRITTEN NOTICE IN THE SAME CONDITION IT WAS GIVEN TO YOU, EXCEPT FOR NORMAL WEAR AND TEAR. ANY DOWN PAYMENT OR TRADE-IN YOU GAVE THE DEALER WILL BE RETURNED TO YOU. IF YOU DO NOT RETURN THE VEHICLE WITHIN 24 HOURS OF VERBAL OR WRITTEN NOTICE OF CANCELLATION, THE DEALER MAY LOCATE THE VEHICLE AND TAKE IT BACK WITHOUT FURTHER NOTICE TO YOU AS LONG AS THE DEALER FOLLOWS THE LAW AND DOES NOT CAUSE A BREACH OF THE PEACE WHEN TAKING THE VEHICLE BACK. IF THE DEALER DOES NOT RETURN YOUR DOWN PAYMENT AND ANY TRADE-IN WHEN THE DEALER GETS THE VEHICLE BACK IN THE SAME CONDITION IT WAS GIVEN TO YOU, EXCEPT FOR NORMAL WEAR AND TEAR, THE DEALER MAY BE LIABLE TO YOU UNDER THE VIRGINIA CONSUMER PROTECTION ACT."

13. For sales of used motor vehicles, the disclosure required by § 46.2-1529.1.

~~If~~ *Except for trailers and travel trailers, if* the transaction does not include a policy of motor vehicle liability insurance, the seller shall stamp or mark on the face of the bill of sale in boldface letters no smaller than ~~18 point~~ *18-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 Board 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 11 inches and the print shall be no smaller than one-half inch, and in a form as approved by the Board.

D. ~~If~~ *Except for trailers, if* the buyer's order is for a new motor vehicle ~~having a gross vehicle weight rating of less than 16,000 pounds~~ that had accumulated, at the time of the sale, mileage in excess of 750 miles as a demonstrator or as a result of delivery to a prospective purchaser who never took title

to the new motor vehicle and returned it, the vehicle may be sold as new, provided the dealer delivers this disclosure in writing on the buyer's order containing type of no smaller than 10 point or in a separate document containing only the disclosure in type of no smaller than 14 point: "Notice: This new motor vehicle has accumulated mileage in excess of 750 miles as the result of use as a demonstrator and/or as the result of delivery to a prior prospective purchaser who never took title to it and who returned it." When delivered as a separate document, this disclosure shall also contain the actual odometer reading for the vehicle and shall be signed by the purchaser.

E. The provisions of this section shall not apply to the sale or exchange of (i) a tractor truck, (ii) a truck having a gross vehicle weight rating of more than 16,000 pounds, or (iii) a semitrailer.

§ 46.2-1531. Consignment vehicles; contract.

Any motor vehicle dealer offering a vehicle for sale on consignment shall have in his possession a consignment contract for the vehicle, executed and signed by the dealer and the consignor. The consignment contract shall include:

1. The complete name, address, and the telephone number of the owners.

2. The name, address, and dealer certificate number of the selling dealer.

3. A complete description of the vehicle on consignment, including the make, model year, vehicle identification number, and body style, *except that trailers shall not be subject to the requirement for vehicle identification number or body style*.

4. The beginning and termination dates of the contract.

5. The percentage of commission, the amount of the commission, or the net amount the owner is to receive, if the vehicle is sold.

6. Any fees for which the owner is responsible.

7. A disclosure of all unsatisfied liens on the vehicle and the location of the certificate of title to the vehicle.

8. A requirement that the motor vehicle pass a safety inspection prior to sale or, if the motor vehicle is found not to be in compliance with any safety inspection requirement after having been inspected, the dealer shall either take steps to bring it into compliance or furnish any buyer intending to use that vehicle on the public highways a written disclosure, prior to sale, that the vehicle did not pass a safety inspection.

Any dealer offering a vehicle for sale on consignment shall inform any prospective customer that the vehicle is on consignment.

Dealer license plates shall not be used to demonstrate a vehicle on consignment except on (i) motor vehicles with gross vehicle weight of 15,000 pounds or more, *excluding RVs*, (ii) vehicles on consignment from another licensed motor vehicle dealer, and (iii) vehicles on consignment from a nonprofit organization certified pursuant to subsection B of § 46.2-1508.1. The owner's license plates may be used if liability insurance coverage is in effect in the amounts prescribed by § 46.2-472.

No vehicles except motorcycles shall be sold on consignment by motorcycle dealers.

No vehicles except recreational vehicles shall be sold on consignment by recreational vehicle dealers.

No vehicles other than trailers shall be sold on consignment by trailer dealers.

The provisions of this section shall also apply to watercraft trailers and watercraft trailer dealers.

§ 46.2-1532. Odometer disclosure; penalty.

Every motor vehicle dealer shall comply with all requirements of the Federal Odometer Act and § 46.2-629 by completing the appropriate odometer mileage statement form for each vehicle purchased, sold or transferred, or in any other way acquired or disposed of. Odometer disclosure statements shall be maintained by the dealer in a manner that permits systematic retrieval. Any person found guilty of violating any of the provisions of this section ~~shall be~~ *is* guilty of a Class 1 misdemeanor.

The provisions of this section shall not apply to trailers, travel trailers, all-terrain vehicles, or off-road motorcycles.

§ 46.2-1533. Business hours.

Each motor vehicle dealer shall be open for business a minimum of ~~twenty~~ *20* hours per week, at least ~~ten~~ *10* of which shall be between the hours of 9:00 a.m. and 5:00 p.m. Monday through Friday, except that the Board, on written request by a dealer, may modify these requirements for good cause. ~~Each licensee engaged in business exclusively as a dealer in used mobile homes without inventory shall be open for business a minimum of two consecutive hours per week between the hours of 9:00 a.m. and 5:00 p.m. Monday through Friday.~~ The dealer's hours shall be posted and maintained conspicuously on or near the main entrance of each place of business.

Each dealer shall include his business hours on the original and every renewal application for a license, and changes to these hours shall be immediately filed with the Department.

§ 46.2-1534. Signs.

Each retail motor vehicle dealer's place of business shall be identified by a permanent sign visible from the front of the business office so that the public may quickly and easily identify the dealership. The sign shall contain the dealer's trade name in letters no less than six inches in height unless

otherwise restricted by law or contract.

~~Each licensee engaged in business exclusively as a dealer in used mobile homes without inventory shall be identified by a permanent sign visible from the front of the business office so that the public may quickly and easily identify the dealership. The sign shall contain the dealer's trade name in letters no less than two inches in height unless otherwise restricted by law or contract.~~

§ 46.2-1536. Coercing purchaser to provide insurance coverage on motor vehicle; penalty.

It shall be unlawful for any dealer or salesperson or any employee of a dealer or representative of either to coerce or offer anything of value to any purchaser of a motor vehicle to provide any type of insurance coverage on the motor vehicle.

Nothing in this section shall prohibit a dealer from requiring that a retail customer obtain automobile physical damage insurance to protect collateral secured by an installment sales contract. Any person found guilty of violating any of the provisions of this section ~~shall be~~ *is* guilty of a Class 1 misdemeanor.

Nothing in this section shall prohibit a dealer from informing the retail customer of the Commonwealth's insurance requirements.

§ 46.2-1539. Inspection of vehicles required; penalty.

No person required to be licensed as a dealer under this chapter shall sell at retail any motor vehicle which is intended by the buyer for use on the public highways, and which is required to comply with the safety inspection requirements provided in Article 21 (§ 46.2-1157 et seq.) of Chapter 10 ~~of this title~~ unless between the time the vehicle comes into the possession of the dealer and the time it is sold at retail it is inspected by an official safety inspection station. In the event the vehicle is found not to be in compliance with all safety inspection requirements, the dealer shall either take steps to bring it into compliance or shall furnish any buyer intending it for use on the public highway a written disclosure, prior to sale, that the vehicle did not pass a safety inspection. Any person found guilty of violating any of the provisions of this section ~~shall be~~ *is* guilty of a Class 1 misdemeanor.

The provisions of this section shall also apply to watercraft trailers and watercraft trailer dealers.

§ 46.2-1539.1. Safety inspections or disclosure required before sale of certain trailers; penalty.

Any trailer required by any provision of this title to undergo periodic safety inspections shall be inspected by an official inspection station between the time it comes into the possession of a retail dealer and the time the trailer is sold by the dealer or, in lieu of an inspection, the dealer shall present to the purchaser, prior to purchase of the trailer, a written itemization of all the trailer's deficiencies relative to applicable safety inspection requirements. The provisions of this section shall not apply to (i) sales of trailers or watercraft trailers by individuals not ordinarily engaged in the business of selling trailers or watercraft trailers or (ii) the retail sale of five or more trailers to the same buyer. Any person found guilty of violating any provision of this section is guilty of a Class 1 misdemeanor.

§ 46.2-1540. Inspections prior to sale not required of certain sellers.

The provisions of §§ 46.2-1158 and 46.2-1539 requiring inspection of any motor vehicle prior to sale at retail shall not apply to any person conducting a public auction for the sale of motor vehicles at retail, provided that the individual, firm, or business conducting the auction shall not have taken title to the vehicle, but is acting as an agent for the sale of the vehicle. Nor shall the provisions of §§ 46.2-1158 and 46.2-1539 requiring inspection of any motor vehicle prior to sale at retail apply to any new motor vehicle or vehicles sold on the basis of a special order placed by a dealer with a manufacturer outside ~~Virginia~~ *the Commonwealth* on behalf of a customer who is a nonresident of ~~Virginia~~ *the Commonwealth* and takes delivery outside ~~Virginia~~ *the Commonwealth*. *Nor shall the provisions of §§ 46.2-1158 and 46.2-1539 requiring inspection of any trailer prior to sale at retail apply to the sale of five or more used trailers with a gross weight of more than 10,000 pounds to the same buyer, provided that the trailers have a valid safety inspection.*

The provisions of this section shall also apply to watercraft trailers.

§ 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 the dealer or purchaser exercises the statutory or contractual rights to cancel a purchaser's contract to buy a vehicle before application for title to the vehicle has been submitted to the Department in the name of the purchaser, the dealer shall have the right to possession of the vehicle without claim of possession by the purchaser within 24 hours of written or oral notice to the purchaser and without regard to the provision of Title 8.9A, provided the dealer's right to possession is enforced otherwise in accordance with law and without breach of the peace. In the event the dealer regains possession of the vehicle, in the same condition, normal wear and tear excepted, as delivered to the purchaser, the purchaser shall have the right to possession of any trade-in and return of any down payment, and if the dealer fails to return the trade-in and/or down payment the dealer may be held liable under § 59.1-200 of the Virginia Consumer Protection Act (§ 59.1-196), in addition to any other rights and remedies available by statute or contract.

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 or vehicle ownership is transferred in accordance with § 46.2-603.1 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 30 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, fails to transfer vehicle ownership in accordance with § 46.2-603.1, 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, if the dealer fails to deliver the certificate of title or certificate of origin to the purchaser or fails to transfer vehicle ownership in accordance with § 46.2-603.1 within 30 days, a second temporary certificate of registration may be issued. However, the dealer shall, not later than the expiration of the first temporary certificate, deliver to the Department an application for title, copy of the bill of sale, all required fees and a written statement of facts describing the dealer's efforts to secure the certificate of title or certificate of origin to the vehicle. On receipt of the title application with attachments as described herein, the Department shall record the purchaser's rights hereunder to the vehicle and may authorize the dealer to issue a second 30-day temporary certificate of registration. If the dealer does not produce the certificate of title or certificate of origin to the vehicle before the expiration of the second temporary certificate, the purchaser's rights to the vehicle under this section may terminate and he shall have the right to return the vehicle as provided in subsection B.

D. If the dealer is unable to produce the certificate of title or certificate of origin to the vehicle or transfer vehicle ownership in accordance with § 46.2-603.1 within the 60-day period from the date of issuance of the first temporary certificate, the Department may extend temporary registration for an additional period of up to 90 days, provided the dealer makes application in the format required by the Department. If the dealer does not produce the certificate of title or certificate of origin to the vehicle or transfer vehicle ownership in accordance with § 46.2-603.1 before the expiration of the additional 90-day period, the purchaser's rights hereunder to the vehicle may terminate and he shall have the right to return the vehicle as provided in subsection B.

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

The provisions of this section shall also apply to watercraft trailers and watercraft trailer dealers but shall not apply to all-terrain vehicles and off-road motorcycles.

§ 46.2-1543. Use of old license plates and registration number on another vehicle.

An owner who sells or transfers a registered motor vehicle may have the license plates and the registration number transferred to another vehicle titled in the owner's name according to the provisions of Chapter 6 (§ 46.2-600 et seq.) ~~of this title~~, which is in a like vehicle category as specified in § 46.2-694 and ~~which~~ requires an identical registration fee, on application to the Department accompanied by a fee of ~~two dollars~~ *$2* or, if the other vehicle requires a greater registration fee than that for which the license plates were assigned, on the payment of a fee of ~~two dollars~~ *$2* and the amount of the difference in registration fees between the two vehicles, all such transfers to be in accordance with the regulations of the Department. All fees collected under this section shall be paid by the Commissioner into the state treasury and shall be set aside as a special fund to be used to meet the expenses of the Department. For purposes of this section, a motor vehicle dealer licensed by the Board may be authorized to act as an agent of the Department for the purpose of receiving, processing, and approving applications from its customers for assignment of license plates and registration numbers pursuant to this section, using the forms and following the procedures prescribed by the Department. The Commissioner, on determining that the provisions of this section or the directions of the Department are not being complied with by a dealer, may suspend, after a hearing, the authority of the dealer to receive, process, and approve the assignment of license plates and registration numbers pursuant to this section.

The provisions of this section shall also apply to watercraft trailers and watercraft trailer dealers.

§ 46.2-1544. Certificate of title for dealers; penalty.

Except as otherwise provided in this chapter, every dealer shall obtain, on the purchase of each vehicle, a certificate of title issued to the dealer or shall obtain an assignment or reassignment of a certificate of title for each vehicle purchased, except that a certificate of title shall not be required for any new vehicle to be sold as such. Any person found guilty of violating any of the provisions of this section ~~shall be~~ *is* guilty of a Class 1 misdemeanor.

The provisions of this section shall also apply to watercraft trailers and watercraft trailer dealers.

§ 46.2-1545. Termination of business.

No dealer, unless his license has been suspended, revoked, or canceled, shall cease business without a ~~thirty-day~~ *30-day* prior notification to the Department and the Board. On cessation of the business, the dealer shall immediately surrender to the Board the dealer's certificate of license, all salespersons' licenses, and any other materials furnished by the Board. The dealer shall also immediately surrender to the Department all dealer and temporary license plates, all fees and taxes collected, and any other materials furnished by the Department. After cessation of business, the former licensee shall continue to maintain and make available to the Department and the Board dealer records as set forth in this chapter.

The provisions of this section shall also apply to watercraft trailers and watercraft trailer dealers.

§ 46.2-1545.1. Watercraft trailer dealers and watercraft trailers.

For the purposes of this article:

"Dealer" and "trailer dealer" includes watercraft trailer dealers.

"Trailer" includes watercraft trailers.

§ 46.2-1545.2. Exclusion of all-terrain vehicles and off-road motorcycles.

Nothing in this article shall apply to all-terrain vehicles or off-road motorcycles.

§ 46.2-1547. License under this chapter prerequisite to receiving dealer's license plates; insurance required; Commissioner may revoke plates.

No motor vehicle *manufacturer, distributor, or* dealer, unless licensed under this chapter, ~~nor any manufacturer or distributor, unless licensed under Chapter 19 (§ 46.2-1900 et seq.) of this title,~~ shall be entitled to receive or maintain any dealer's license plates. It shall be unlawful to use or permit the use of any dealer's license plates for which there is no automobile liability insurance coverage or a certificate of self-insurance as defined in § 46.2-368 on any motor vehicle. No dealer's license plates shall be issued unless the dealer certifies to the Department that there is automobile liability insurance coverage or a certificate of self-insurance with respect to each dealer's license plate to be issued. Such automobile liability insurance or a certificate of self-insurance shall be maintained as to each dealer's license plate for so long as the registration for the dealer's license plate remains valid without regard to whether the plate is actually being used on a vehicle. If insurance or a certificate of self-insurance is not so maintained, the dealer's license plate shall be surrendered to the Department. The Commissioner shall revoke any dealer's license plate as to which there is no insurance or a certificate of self-insurance. The Commissioner may also revoke any dealer's license plate that has been used in any way not authorized by the provisions of this title.

The requirements relating to insurance in this article shall not apply to trailers or watercraft trailers.

§ 46.2-1557.3. Exclusion of all-terrain vehicles and off-road motorcycles.

Nothing in this article shall apply to all-terrain vehicles or off-road motorcycles.

§ 46.2-1557.4. Watercraft trailer dealers and watercraft trailers.

For the purposes of this article:

"Dealer" and "trailer dealer" includes watercraft trailer dealers.

"Trailer" includes watercraft trailers.

§ 46.2-1558. Issuance of temporary license plates to dealers and vehicle owners.

The Department may, subject to the limitations and conditions set forth in this article, deliver temporary license plates designed by the Department to any dealer licensed under this chapter who applies for at least 10 sets of plates and who encloses with his application a fee of $3 for each set applied for. The application shall be made on a form prescribed and furnished by the Department. Dealers, subject to the limitations and conditions set forth in this article, may issue temporary license plates to owners of vehicles. The owners shall comply with the provisions of this article and §§ 46.2-705, 46.2-706 and 46.2-707. Dealers issuing temporary license plates may do so free of charge, but if they charge a fee for issuing temporary plates, the fee shall be no more than the fee charged the dealer by the Department under this section.

Display of a temporary license plate or plates on a motor vehicle~~, trailer, or semitrailer~~ shall subject the vehicle to the requirements of §§ 46.2-1038 and 46.2-1056.

§ 46.2-1561. To whom temporary plates shall not be issued; dealer to forward application for current titling and registration; misstatements and false information.

No dealer shall issue, assign, transfer, or deliver temporary license plates to other than the bona fide purchaser or owner of a vehicle, whether or not the vehicle is to be registered in ~~Virginia~~ *the Commonwealth*. If the vehicle is to be registered in ~~Virginia~~ *the Commonwealth*, the dealer shall submit to the Department a written application for the current titling and registration of the purchased vehicle, accompanied by the prescribed fees. Any dealer who issues temporary license plates to a purchaser who fails or declines to request that his application be forwarded promptly to the Department forthwith shall notify the Department of the issuance in the manner provided in this article. No dealer shall lend temporary license plates to any person for use on any vehicle. If the dealer does not have in his possession the certificate of title or certificate of origin he may issue temporary license plates even though the purchaser has current license plates to be transferred. The dealer shall present the title or certificate of origin to the customer or transfer vehicle ownership in accordance with § 46.2-603.1 within 30 days of purchase and after this transaction is completed the customer shall transfer his current license plates to the vehicle. If the title or certificate of origin cannot be produced for a vehicle or the dealer fails to transfer vehicle ownership in accordance with § 46.2-603.1 within 30 days, a second set of temporary license plates may be issued provided that a temporary certificate of ~~ownership~~ *registration* is issued as provided in § 46.2-1542. It shall be unlawful for any person to issue any temporary license plates containing any misstatement of fact, or for any person issuing or using temporary license plates knowingly to insert any false information on their face.

§ 46.2-1565.1. Penalties.

Any person violating any of the provisions of this article ~~shall be~~ *is* guilty of a Class ~~3~~ *1* misdemeanor. Any summons issued for any violation of any provision of this article relating to use or misuse of temporary license plates shall be served upon the dealership to whom the plates were issued or to the person expressly permitting the unlawful use, or upon the operator of the motor vehicle if the plates are used contrary to the use authorized pursuant to § 46.2-1561.

Article 7.2.

Recreational Vehicle Franchises.

§ 46.2-1573.2. Filing of franchises.

Each recreational vehicle manufacturer, factory branch, distributor, distributor branch, or subsidiary thereof shall file with the Commissioner a true copy of each new, amended, modified, or different form or addendum offered to more than one dealer that affects the rights, responsibilities, or obligations of the parties of a franchise or sales, service, or sales and service agreement to be offered to a recreational vehicle dealer or prospective recreational vehicle dealer in the Commonwealth no later than 60 days prior to the date the franchise or sales agreement is offered. In no event shall a new, amended, modified, or different form of franchise or sales, service, or sales and service agreement be offered a recreational vehicle dealer in the Commonwealth until the form has been determined by the Commissioner as not containing terms inconsistent with the provisions of this chapter. At the time a filing is made with the Commissioner pursuant to this section, the manufacturer, factory branch, distributor, distributor branch, or subsidiary shall also give written notice together with a copy of the papers so filed to the affected dealer or dealers.

§ 46.2-1573.3. Exemption of franchises from Retail Franchising Act.

Franchises subject to the provisions of this chapter shall not be subject to any requirement contained in Chapter 8 (§ 13.1-557 et seq.) of Title 13.1.

§ 46.2-1573.4. Coercion of retail dealer by manufacturer or distributor with respect to retail installment sales contracts prohibited; penalty.

A. It shall be unlawful for any manufacturer or distributor, or any officer, agent, or representative of either, to coerce or attempt to coerce any retail recreational vehicle dealer or prospective retail recreational vehicle dealer in the Commonwealth to sell, assign, or transfer any retail installment sales contract, obtained by the dealer in connection with the sale by him in the Commonwealth of recreational vehicles manufactured or sold by the manufacturer or distributor, to a specified finance company or class of finance companies or to any other specified persons by any of the following:

1. Any statement, suggestion, promise, or threat that the manufacturer or distributor will in any manner benefit or injure the dealer, whether the statement, suggestion, threat, or promise is expressed or implied or made directly or indirectly.

2. Any act that will benefit or injure the dealer.

3. Any contract, or any expressed or implied offer of contract, made directly or indirectly to the dealer, for handling the recreational vehicle on the condition that the dealer sell, assign, or transfer his retail installment sales contract on the recreational vehicle, in the Commonwealth, to a specified finance company or class of finance companies or to any other specified person.

4. Any expressed or implied statement or representation made directly or indirectly that the dealer is under any obligation whatsoever to sell, assign, or transfer any of his retail sales contracts in the Commonwealth on recreational vehicles manufactured or sold by the manufacturer or distributor to a finance company, class of finance companies, or other specified person, because of any relationship or affiliation between the manufacturer or distributor and the finance company or companies or the specified person.

B. Any such statements, threats, promises, acts, contracts, or offers of contracts, when their effect may be to lessen or eliminate competition or tend to create a monopoly, are declared unfair trade practices and unfair methods of competition and are prohibited.

C. Any person violating any of the provisions of this section is guilty of a Class 1 misdemeanor.

§ 46.2-1573.5. Other coercion of dealers; transfer, grant, succession to and cancellation of dealer franchises; delivery of recreational vehicles, parts, and accessories.

It shall be unlawful for any manufacturer, factory branch, distributor, or distributor branch, or any field representative, officer, agent, or their representatives:

1. To coerce or attempt to coerce any dealer to accept delivery of any recreational vehicle or recreational vehicles, parts or accessories therefor, or any other commodities that have not been ordered by the dealer.

2. To coerce or attempt to coerce any dealer to enter into an agreement with the manufacturer, factory branch, distributor, or distributor branch, or representative thereof, or do any other act unfair to the dealer, by threatening to cancel any franchise existing between the manufacturer, factory branch, distributor, distributor branch, or representative thereof and the dealer.

3. To coerce or attempt to coerce any dealer to join, contribute to, or affiliate with any advertising association.

4. To prevent or refuse to approve the sale or transfer of the ownership of a dealership by the sale of the business, stock transfer, or otherwise, or the transfer, sale, or assignment of a dealer franchise, or a change in the executive management or principal operator of the dealership, unless the franchisor provides written notice to the dealer of its objection and the reasons therefor at least 30 days prior to the proposed effective date of the transfer, sale, assignment, or change. No such objection shall be effective to prevent the sale, transfer, assignment, or change if the Commissioner has determined, if requested in writing by the dealer within 30 days after receipt of an objection to the proposed sale, transfer, or change, and after a hearing on the matter, that the failure to permit or honor the sale, transfer, assignment, or change is unreasonable under the circumstances. No franchise may be sold, assigned, or transferred unless (i) the franchisor has been given at least 90 days' prior written notice by the dealer as to the identity, financial ability, and qualifications of the proposed transferee and (ii) the sale or transfer of the franchise and business will not involve, without the franchisor's consent, a relocation of the business.

5. To grant an additional franchise for a particular line-make of recreational vehicle in a relevant market area in which a dealer or dealers in that line-make are already located unless the franchisor has first advised in writing all other dealers in the line-make in the relevant market area. No such additional franchise may be established at the proposed site unless the Commissioner has determined, if requested by a dealer of the same line-make in the relevant market area within 30 days after receipt of the franchisor's notice of intention to establish the additional franchise, and after a hearing on the matter, that there is reasonable evidence that after the grant of the new franchise, the market will support all of the dealers in that line-make in the relevant market area. Establishing a franchised dealer in a relevant market area to replace a franchised dealer that has not been in operation for more than

two years shall constitute the establishment of a new franchise subject to the terms of this subdivision. The two-year period for replacing a franchised dealer shall begin on the day the franchise was terminated or, if a termination hearing was held, on the day the franchisor was legally permitted finally to terminate the franchise. This subdivision shall not apply to (i) the relocation of an existing dealer within that dealer's relevant market area if the relocation site is to be more than 10 miles distant from any other dealer for the same line-make; (ii) the relocation of an existing dealer within that dealer's relevant market area if the relocation site is to be more distant than the existing site from all other dealers of the same line-make in that relevant market area; or (iii) the relocation of an existing new recreational vehicle dealer within two miles of the existing site of the relocating dealer.

6. Except as otherwise provided in this subdivision and notwithstanding the terms of any franchise, to terminate, cancel, or refuse to renew the franchise of any dealer without good cause and unless (i) the dealer and the Commissioner have received written notice of the franchisor's intentions at least 60 days prior to the effective date of such termination, cancellation, or the expiration date of the franchise, setting forth the specific grounds for the action, and (ii) the Commissioner has determined, if requested in writing by the dealer within the 60-day period and, after a hearing on the matter, that there is good cause for the termination, cancellation, or nonrenewal of the franchise. In any case where a petition is made to the Commissioner for a determination as to good cause for the termination, cancellation, or nonrenewal of a franchise, the franchise in question shall continue in effect pending the Commissioner's decision or, if that decision is appealed to the circuit court, pending the decision of the circuit court. In any case in which a franchisor neither advises a dealer that it does not intend to renew a franchise nor takes any action to renew a franchise beyond its expiration date, the franchise in question shall continue in effect on the terms last agreed to by the parties. Notwithstanding the other provisions of this subdivision, notice of termination, cancellation, or nonrenewal may be provided to a dealer by a franchisor not less than 15 days prior to the effective date of such termination, cancellation, or nonrenewal when the grounds for such action are any of the following:

a. Insolvency of the franchised recreational vehicle dealer or filing of any petition by or against the franchised recreational vehicle dealer, under any bankruptcy or receivership law, leading to liquidation or that is intended to lead to liquidation of the franchisee's business;

b. Failure of the franchised recreational vehicle dealer to conduct its customary sales and service operations during its posted business hours for seven consecutive business days, except where the failure results from acts of God or circumstances beyond the direct control of the franchised recreational vehicle dealer;

c. Revocation of any license that the franchised recreational vehicle dealer is required to have to operate a dealership; or

d. Conviction of the dealer or any principal of the dealer of a felony.

The change or discontinuance of a marketing or distribution system of a particular line-make product by a manufacturer or distributor, while the name identification of the product is continued in substantial form by the same or different manufacturer or distributor, may be considered to be a franchise termination, cancellation, or nonrenewal.

7. To fail to provide continued parts and service support to a dealer that holds a franchise in a discontinued line-make for at least five years from the date of such discontinuance.

8. To fail to allow a dealer the right at any time to designate a member of his family as a successor to the dealership in the event of the death or incapacity of the dealer. It shall be unlawful to prevent or refuse to honor the succession to a dealership by a member of the family of a deceased or incapacitated dealer if the franchisor has not provided to the member of the family previously designated by the dealer as his successor written notice of its objections to the succession and of such person's right to seek a hearing on the matter before the Commissioner pursuant to this article, and the Commissioner determines, if requested in writing by such member of the family within 30 days of receipt of such notice from the franchisor, and after a hearing on the matter before the Commissioner pursuant to this article, that the failure to permit or honor the succession is unreasonable under the circumstances. No member of the family may succeed to a franchise unless (i) the franchisor has been given written notice as to the identity, financial ability, and qualifications of the member of the family in question and (ii) the succession to the franchise will not involve, without the franchisor's consent, a relocation of the business.

9. To fail to ship monthly to any dealer, if ordered by the dealer, the number of new recreational vehicles of each make, series, and model needed by the dealer to receive a percentage of total new recreational vehicle sales of each make, series, and model equitably related to the total new recreational vehicle production or importation currently being achieved nationally by each make, series, and model covered under the franchise. Upon the written request of any dealer holding its sales or sales and service franchise, the manufacturer or distributor shall disclose to the dealer in writing the basis upon which new recreational vehicles are allocated, scheduled, and delivered to the dealers of the same line-make. If allocation is at issue in a request for a hearing, the dealer may demand the Commissioner

to direct that the manufacturer or distributor provide to the dealer, within 30 days of such demand, all records of sales and all records of distribution of all recreational vehicles to the same line-make dealers who compete with the dealer requesting the hearing.

10. To require or otherwise coerce a dealer to underutilize the dealer's facilities.

11. To include in any franchise with a recreational vehicle dealer terms that are contrary to, prohibited by, or otherwise inconsistent with the requirements of this chapter.

12. To require under any franchise agreement a recreational vehicle dealer to pay the attorney fees of the manufacturer or distributor related to hearings and appeals brought under this article.

13. To fail to include in any franchise with a recreational vehicle dealer the following language: "If any provision herein contravenes the laws or regulations of any state or other jurisdiction wherein this agreement is to be performed, or denies access to the procedures, forums, or remedies provided for by such laws or regulations, such provision shall be deemed to be modified to conform to such laws or regulations, and all other terms and provisions shall remain in full force," or words to that effect.

§ 46.2-1573.6. Manufacturer or distributor right of first refusal.

Notwithstanding the terms of any franchise agreement, in the event of a proposed sale or transfer of a dealership, the manufacturer or distributor shall be permitted to exercise a right of first refusal to acquire the new recreational vehicle dealer's assets or ownership, if such sale or transfer is conditioned upon the manufacturer's or dealer's entering into a dealer agreement with the proposed new owner or transferee, only if all the following requirements are met:

1. To exercise its right of first refusal, the manufacturer or distributor must notify the dealer in writing within 45 days of its receipt of the completed proposal for the proposed sale or transfer;

2. The exercise of the right of first refusal will result in the dealer's and dealer owner's receiving the same or greater consideration as they have contracted to receive in connection with the proposed change of ownership or transfer;

3. The proposed sale or transfer of the dealership's assets does not involve the transfer or sale to a member or members of the family of one or more dealer owners, or to a qualified manager or a partnership or corporation controlled by such persons; and

4. The manufacturer or distributor agrees to pay the reasonable expenses, including attorney fees that do not exceed the usual, customary, and reasonable fees charged for similar work done for other clients, incurred by the proposed new owner and transferee prior to the manufacturer's or distributor's exercise of its right of first refusal in negotiating and implementing the contract for the proposed sale or transfer of the dealership or dealership assets. Notwithstanding the foregoing, no payment of such expenses and attorney fees shall be required if the dealer has not submitted or caused to be submitted an accounting of those expenses within 30 days of the dealer's receipt of the manufacturer's or distributor's written request for such an accounting. Such accounting may be requested by a manufacturer or distributor before exercising its right of first refusal.

§ 46.2-1573.7. Discontinuation of distributors.

If the contract between a distributor and a manufacturer or importer is terminated or otherwise discontinued, all franchises granted to recreational vehicle dealers in the Commonwealth by that distributor shall continue in full force and shall not be affected by the discontinuance, except that the manufacturer, factory branch, distributor, representative, or other person who undertakes to distribute recreational vehicles of the same line-make or the same recreational vehicles of a renamed line-make shall be substituted for the discontinued distributor under the existing recreational vehicle dealer franchises, and those franchises shall be modified accordingly.

§ 46.2-1573.8. Warranty obligations.

A. Each recreational vehicle manufacturer, factory branch, distributor, or distributor branch shall (i) specify in writing to each of its recreational vehicle dealers licensed in the Commonwealth the dealer's obligations for preparation, delivery, and warranty service on its products and (ii) compensate the dealer for warranty parts, service, and diagnostic work required of the dealer by the manufacturer or distributor as follows:

1. Compensation of a dealer for warranty parts, service, and diagnostic work shall not be less than the amounts charged by the dealer for the manufacturer's or distributor's original parts, service, and diagnostic work to retail customers for nonwarranty service, parts, and diagnostic work installed or performed in the dealer's service department unless the amounts are not reasonable;

2. For purposes of determining warranty parts and service compensation, menu-priced parts or services, group discounts, special event discounts, and special event promotions shall not be considered in determining amounts charged by the dealer to retail customers;

3. Increases in dealer warranty parts and service compensation and diagnostic work compensation, pursuant to this section, shall be requested by the dealer in writing, shall be based on 100 consecutive repair orders or all repair orders over a 90-day period, whichever occurs first, and, in the case of parts, shall be stated as a percentage of markup that shall be uniformly applied to all the

manufacturer's or distributor's parts;

4. In the case of warranty parts compensation, the provisions of this subsection shall be effective only for model year 1992 and succeeding model years;

5. If a manufacturer or distributor furnishes a part to a dealer at no cost for use by the dealer in performing work for which the manufacturer or distributor is required to compensate the dealer under this section, the manufacturer or distributor shall compensate the dealer for the part in the same manner as warranty parts compensation, less the wholesale costs, for such part as listed in the manufacturer's current price schedules. A manufacturer or distributor may pay the dealer a reasonable handling fee instead of the compensation otherwise required by this subsection for special high-performance complete engine assemblies in limited production recreational vehicles that constitute less than five percent of model production furnished to the dealer at no cost, if the manufacturer or distributor excludes such special high-performance complete engine assemblies in determining whether the amounts requested by the dealer for warranty compensation are consistent with the amounts that the dealer charges its other retail service customers for parts used by the dealer to perform similar work; or

6. In the case of service work, manufacturer original parts or parts otherwise specified by the manufacturer or distributor, and parts provided by a dealer either pursuant to an adjustment program as defined in § 59.1-207.34 or as otherwise requested by the manufacturer or distributor, the dealer shall be compensated in the same manner as for warranty service or parts.

This section does not apply to compensation for parts such as components, systems, fixtures, appliances, furnishings, accessories, and features that are designed, used, and maintained primarily for nonvehicular, residential purposes. Warranty audits of dealer records may be conducted by the manufacturer, factory branch, distributor, or distributor branch on a reasonable basis, and dealer claims for warranty compensation shall not be denied except for good cause, such as performance of nonwarranty repairs, lack of material documentation, fraud, or misrepresentation. Claims for dealer compensation shall be paid within 30 days of dealer submission or within 30 days of the end of an incentive program or rejected in writing for stated reasons. The manufacturer, factory branch, distributor, or distributor branch shall reserve the right to reasonable periodic audits to determine the validity of all such paid claims for dealer compensation. Any chargebacks for warranty parts or service compensation and service incentives shall only be for the 12-month period immediately following the date of the claim and, in the case of chargebacks for sales compensation only, for the 18-month period immediately following the date of claim. However, such limitations shall not be effective in the case of intentionally false or fraudulent claims.

B. It shall be unlawful for any recreational vehicle manufacturer, factory branch, distributor, or distributor branch to:

1. Fail to perform any of its warranty obligations, including tires, with respect to a recreational vehicle;

2. Fail to assume all responsibility for any liability resulting from structural or production defects;

3. Fail to include in written notices of factory recalls to recreational vehicle owners and dealers the expected date by which necessary parts and equipment will be available to dealers for the correction of defects;

4. Fail to compensate any of the recreational vehicle dealers licensed in the Commonwealth for repairs effected by the dealer of merchandise damaged in manufacture or transit to the dealer where the carrier is designated by the manufacturer, factory branch, distributor, or distributor branch;

5. Fail to compensate its recreational vehicle dealers licensed in the Commonwealth for warranty parts, work, and service pursuant to subsection A or for legal costs and expenses incurred by such dealers in connection with warranty obligations for which the manufacturer, factory branch, distributor, or distributor branch is legally responsible or that the manufacturer, factory branch, distributor, or distributor branch imposes upon the dealer;

6. Misrepresent in any way to purchasers of recreational vehicles that warranties with respect to the manufacture, performance, or design of the recreational vehicle are made by the dealer, either as warrantor or co-warrantor;

7. Require the dealer to make warranties to customers in any manner related to the manufacture, performance, or design of the recreational vehicle; or

8. Shift or attempt to shift to the recreational vehicle dealer, directly or indirectly, any liabilities of the manufacturer, factory branch, distributor, or distributor branch under the Virginia Motor Vehicle Warranty Enforcement Act (§ 59.1-207.9 et seq.), unless such liability results from the act or omission by the dealer.

C. Notwithstanding the terms of any franchise, it shall be unlawful for any recreational vehicle manufacturer, factory branch, distributor, or distributor branch to fail to indemnify and hold harmless its recreational vehicle dealers against any losses or damages arising out of complaints, claims, or suits relating to the manufacture, assembly, or design of recreational vehicles, parts, or accessories, or other

functions by the manufacturer, factory branch, distributor, or distributor branch beyond the control of the dealer, including, without limitation, the selection by the manufacturer, factory branch, distributor, or distributor branch of parts or components for the recreational vehicle or any damages to merchandise occurring in transit to the dealer where the carrier is designated by the manufacturer, factory branch, distributor, or distributor branch. The dealer shall notify the manufacturer of pending suits in which allegations are made that come within this subsection whenever reasonably practicable to do so. Every recreational vehicle dealer franchise issued to, amended, or renewed for recreational vehicle dealers in the Commonwealth shall be construed to incorporate provisions consistent with the requirements of this subsection.

D. On any new recreational vehicle, any uncorrected damage or any corrected damage exceeding three percent of the manufacturer's or distributor's suggested retail price as defined in 15 U.S.C. §§ 1231-1233, as measured by retail repair costs, must be disclosed to the dealer in writing prior to delivery. Factory mechanical repair and damage to glass, tires, and bumpers are excluded from the three percent rule when properly replaced by identical manufacturer's or distributor's original equipment or parts. Whenever a new recreational vehicle is damaged in transit, when the carrier or means of transportation is determined by the manufacturer or distributor, or whenever a recreational vehicle is otherwise damaged prior to delivery to the new recreational vehicle dealer, the new recreational vehicle dealer shall:

1. Notify the manufacturer or distributor of the damage within three business days from the date of delivery of the new recreational vehicle to the new recreational vehicle dealership or within the additional time specified in the franchise; and

2. Request from the manufacturer or distributor authorization to replace the components, parts, and accessories damaged or otherwise correct the damage, unless the damage to the recreational vehicle exceeds the three percent rule, in which case the dealer may reject the vehicle within three business days.

E. If the manufacturer or distributor refuses or fails to authorize correction of such damage within 10 days after receipt of notification, or if the dealer rejects the recreational vehicle because damage exceeds the three percent rule, ownership of the new recreational vehicle shall revert to the manufacturer or distributor, and the new recreational vehicle dealer shall have no obligation, financial or otherwise, with respect to such recreational vehicle. Should either the manufacturer, distributor, or the dealer elect to correct the damage or any other damage exceeding the three percent rule, full disclosure shall be made by the dealer in writing to the buyer and an acknowledgment by the buyer is required. If there is less than three percent damage, no disclosure is required, provided that the damage has been corrected. Predelivery mechanical work shall not require a disclosure. Failure to disclose any corrected damage within the knowledge of the selling dealer to a new recreational vehicle in excess of the three percent rule shall constitute grounds for revocation of the buyer order, provided that, within 30 days of purchase, the recreational vehicle is returned to the dealer with an accompanying written notice of the grounds for revocation. In case of revocation pursuant to this section, the dealer shall accept the recreational vehicle and refund any payments made to the dealer in connection with the transaction, less a reasonable allowance for the consumer's use of the vehicle as defined in § 59.1-207.11.

F. If there is a dispute between the manufacturer, factory branch, distributor, or distributor branch and the dealer with respect to any matter referred to in subsection A, B, or C, either party may petition the Commissioner in writing, within 30 days after either party has given written notice of the dispute to the other, for a hearing. The decision of the Commissioner shall be binding on the parties, subject to rights of judicial review and appeal as provided in the Administrative Process Act (§ 2.2-4000 et seq.). However, nothing contained in this section shall give the Commissioner any authority as to the content or interpretation of any manufacturer's or distributor's warranty.

§ 46.2-1573.9. Operation of dealership by manufacturer.

It shall be unlawful for any recreational vehicle manufacturer, factory branch, distributor, distributor branch, or subsidiary thereof to own, operate, or control any recreational vehicle dealership in the Commonwealth. However, this section shall not prohibit:

1. The operation by a manufacturer, factory branch, distributor, distributor branch, or subsidiary thereof, of a dealership for a temporary period, not to exceed one year, during the transition from one owner or operator to another;

2. The ownership or control of a dealership by a manufacturer, factory branch, distributor, distributor branch, or subsidiary thereof, while the dealership is being sold under a bona fide contract or purchase option to the operator of the dealership;

3. The ownership, operation, or control of a dealership by a manufacturer, factory branch, distributor, distributor branch, or subsidiary thereof if the Commissioner determines, after a hearing at the request of any party, that there is no dealer independent of the manufacturer or distributor, factory

branch or distributor branch, or subsidiary thereof available in the community or trade area to own and operate the franchise in a manner consistent with the public interest;

4. The ownership, operation, or control of a dealership dealing exclusively with school buses by a school bus manufacturer or school bus parts manufacturer or a person who assembles school buses; or

5. The ownership, operation, or control of a dealership dealing exclusively with refined fuels truck tanks by a manufacturer of refined fuels truck tanks or by a person who assembles refined fuels truck tanks.

§ 46.2-1573.10. Ownership of service facilities.

It shall be unlawful for any recreational vehicle manufacturer, factory branch, distributor, distributor branch, or subsidiary thereof to own, operate, or control, either directly or indirectly, any recreational vehicle warranty or service facility located in the Commonwealth. Nothing in this section shall prohibit any recreational vehicle manufacturer, factory branch, distributor, distributor branch, or subsidiary thereof from owning, operating, or controlling any warranty or service facility for warranty or service of recreational vehicles owned or operated by the manufacturer, factory branch, distributor, distributor branch, or subsidiary thereof. Nothing contained in this section shall prohibit a recreational vehicle manufacturer, factory branch, distributor, or distributor branch from performing service for reasons of compliance with an order of a court of competent jurisdiction or of warranty under Chapter 17.3 (§ 59.1-207.9 et seq.) of Title 59.1.

The preceding provisions of this section shall not apply to manufacturers of refined fuels truck tanks or to persons who assemble refined fuels truck tanks or to persons who exclusively manufacture or assemble school buses or school bus parts.

§ 46.2-1573.11. Hearings and other remedies; civil penalties.

A. In every case of a hearing before the Commissioner authorized under this article, the Commissioner shall give reasonable notice of each hearing to all interested parties, and the Commissioner's decision shall be binding on the parties, subject to the rights of judicial review and appeal as provided in the Administrative Process Act (§ 2.2-4000 et seq.).

B. Hearings before the Commissioner under this article shall commence within 90 days of the request for a hearing, and the Commissioner's decision shall be rendered within 60 days from the receipt of the hearing officer's recommendation. Hearings authorized under this article shall be presided over by a hearing officer selected from a list prepared by the Executive Secretary of the Supreme Court. On request of the Commissioner, the Executive Secretary will name a hearing officer from the list, selected on a rotation system administered by the Executive Secretary. The hearing officer shall provide recommendations to the Commissioner within 90 days of the conclusion of the hearing.

C. Notwithstanding any contrary provision of this article, the Commissioner shall initiate investigations, conduct hearings, and determine the rights of parties under this article whenever he is provided information indicating a possible violation of any provision of this article.

D. For purposes of any matter brought to the Commissioner under subdivisions 3, 4, 5, 6, and 9 of § 46.2-1573.5 with respect to which the Commissioner is to determine whether there is good cause for a proposed action or whether it would be unreasonable under the circumstances, the Commissioner shall consider:

1. The volume of the affected dealer's business in the relevant market area;

2. The nature and extent of the dealer's investment in its business;

3. The adequacy of the dealer's service facilities, equipment, parts, supplies, and personnel;

4. The effect of the proposed action on the community;

5. The extent and quality of the dealer's service under recreational vehicle warranties;

6. The dealer's performance under the terms of its franchise; and

7. Other economic and geographical factors reasonably associated with the proposed action.

With respect to subdivision 6, any performance standard or program for measuring dealership performance that may have a material effect on a dealer, and the application of any such standard or program by a manufacturer or distributor, shall be fair, reasonable, and equitable and, if based upon a survey, shall be based upon a statistically valid sample. Upon the request of any dealer, a manufacturer or distributor shall disclose in writing to the dealer a description of how a performance standard or program is designed and all relevant information used in the application of the performance standard or program to that dealer.

E. An interested party in a hearing held pursuant to subsection A shall comply with the effective date of compliance established by the Commissioner in his decision in such hearing, unless a stay or extension of such date is granted by the Commissioner or the Commissioner's decision is under judicial review and appeal as provided in subsection A. If, after notice to such interested party and an opportunity to comment, the Commissioner finds an interested party has not complied with his decision by the designated date of compliance, unless a stay or extension of such date has been granted by the Commissioner or the Commissioner's decision is under judicial review and appeal, the Commissioner may assess such interested party a civil penalty not to exceed $1,000 per day of noncompliance. Civil

penalties collected under this subsection shall be deposited into the Transportation Trust Fund established pursuant to § 33.2-1524.

§ 46.2-1573.12. Late model and factory repurchase franchises.

Franchised late model or factory repurchase recreational vehicle dealers shall have the same rights and obligations as provided for franchised new recreational vehicle dealers in this article, mutatis mutandis.

Article 7.3.

Trailer Franchises.

§ 46.2-1573.13. Watercraft trailer dealers and watercraft trailers.

For the purposes of this article:

"Dealer" and "trailer dealer" includes watercraft trailer dealers.

"Trailer" includes watercraft trailers.

§ 46.2-1573.14. Trailer dealers filing of franchises.

Each trailer manufacturer, factory branch, distributor, distributor branch, or subsidiary thereof shall file with the Commissioner a true copy of each new, amended, modified, or different form or addendum offered to more than one dealer that affects the rights, responsibilities, or obligations of the parties of a franchise or sales, service, or sales and service agreement to be offered to a trailer dealer or prospective trailer dealer in the Commonwealth no later than 60 days prior to the date the franchise or sales agreement is offered. In no event shall a new, amended, modified, or different form of franchise or sales, service, or sales and service agreement be offered a trailer dealer in the Commonwealth until the form has been determined by the Commissioner as not containing terms inconsistent with the provisions of this chapter. At the time a filing is made with the Commissioner pursuant to this section, the manufacturer, factory branch, distributor, distributor branch, or subsidiary shall also give written notice together with a copy of the papers so filed to the affected dealer or dealers.

§ 46.2-1573.15. Exemption of franchises from Retail Franchising Act.

Franchises subject to the provisions of this chapter shall not be subject to any requirement contained in Chapter 8 (§ 13.1-557 et seq.) of Title 13.1.

§ 46.2-1573.16. Coercion of retail dealer by manufacturer or distributor with respect to retail installment sales contracts prohibited; penalty.

A. It shall be unlawful for any manufacturer or distributor, or any officer, agent, or representative of either, to coerce or attempt to coerce any retail trailer dealer or prospective retail trailer dealer in the Commonwealth to sell, assign, or transfer any retail installment sales contract obtained by the dealer in connection with the sale by him in the Commonwealth of trailers manufactured or sold by the manufacturer or distributor, to a specified finance company or class of finance companies or to any other specified persons by any of the following:

1. Any statement, suggestion, promise, or threat that the manufacturer or distributor will in any manner benefit or injure the dealer, whether the statement, suggestion, threat, or promise is expressed or implied or made directly or indirectly.

2. Any act that will benefit or injure the dealer.

3. Any contract, or any expressed or implied offer of contract, made directly or indirectly to the dealer, for handling the trailer on the condition that the dealer sell, assign, or transfer his retail installment sales contract on the trailer, in the Commonwealth, to a specified finance company or class of finance companies or to any other specified person.

4. Any expressed or implied statement or representation made directly or indirectly that the dealer is under any obligation whatsoever to sell, assign, or transfer any of his retail sales contracts in the Commonwealth on trailers manufactured or sold by the manufacturer or distributor to a finance company, or class of finance companies, or other specified person, because of any relationship or affiliation between the manufacturer or distributor and the finance company or companies or the specified person.

B. Any such statements, threats, promises, acts, contracts, or offers of contracts, when their effect may be to lessen or eliminate competition or tend to create a monopoly, are declared unfair trade practices and unfair methods of competition and are prohibited.

C. Any person violating any of the provisions of this section is guilty of a Class 1 misdemeanor.

§ 46.2-1573.17. Other coercion of dealers; transfer, grant, succession to and cancellation of dealer franchises; delivery of trailers, parts, and accessories.

It shall be unlawful for any manufacturer, factory branch, distributor, or distributor branch, or any field representative, officer, agent, or their representatives:

1. To coerce or attempt to coerce any dealer to accept delivery of any trailer or trailers, parts or accessories therefor, or any other commodities that have not been ordered by the dealer.

2. To coerce or attempt to coerce any dealer to enter into an agreement with the manufacturer, factory branch, distributor, or distributor branch, or representative thereof, or do any other act unfair

to the dealer, by threatening to cancel any franchise existing between the manufacturer, factory branch, distributor, distributor branch, or representative thereof and the dealer.

3. To coerce or attempt to coerce any dealer to join, contribute to, or affiliate with any advertising association.

4. To prevent or refuse to approve the sale or transfer of the ownership of a dealership by the sale of the business, stock transfer, or otherwise, or the transfer, sale, or assignment of a dealer franchise, or a change in the executive management or principal operator of the dealership, unless the franchisor provides written notice to the dealer of its objection and the reasons therefor at least 30 days prior to the proposed effective date of the transfer, sale, assignment, or change. No such objection shall be effective to prevent the sale, transfer, assignment, or change if the Commissioner has determined, if requested in writing by the dealer within 30 days after receipt of an objection to the proposed sale, transfer, or change, and after a hearing on the matter, that the failure to permit or honor the sale, transfer, assignment, or change is unreasonable under the circumstances. No franchise may be sold, assigned, or transferred unless (i) the franchisor has been given at least 90 days' prior written notice by the dealer as to the identity, financial ability, and qualifications of the proposed transferee and (ii) the sale or transfer of the franchise and business will not involve, without the franchisor's consent, a relocation of the business.

5. To grant an additional franchise for a particular line-make of trailer in a relevant market area in which a dealer or dealers in that line-make are already located unless the franchisor has first advised in writing all other dealers in the line-make in the relevant market area. No such additional franchise may be established at the proposed site unless the Commissioner has determined, if requested by a dealer of the same line-make in the relevant market area within 30 days after receipt of the franchisor's notice of intention to establish the additional franchise, and after a hearing on the matter, that there is reasonable evidence that after the grant of the new franchise, the market will support all of the dealers in that line-make in the relevant market area. Establishing a franchised dealer in a relevant market area to replace a franchised dealer that has not been in operation for more than two years shall constitute the establishment of a new franchise subject to the terms of this subdivision. The two-year period for replacing a franchised dealer shall begin on the day the franchise was terminated or, if a termination hearing was held, on the day the franchisor was legally permitted finally to terminate the franchise. This subdivision shall not apply to (i) the relocation of an existing dealer within that dealer's relevant market area if the relocation site is to be more than 10 miles distant from any other dealer for the same line-make; (ii) the relocation of an existing dealer within that dealer's relevant market area if the relocation site is to be more distant than the existing site from all other dealers of the same line-make in that relevant market area; or (iii) the relocation of an existing new trailer dealer within two miles of the existing site of the relocating dealer.

6. Except as otherwise provided in this subdivision and notwithstanding the terms of any franchise, to terminate, cancel, or refuse to renew the franchise of any dealer without good cause and unless (i) the dealer and the Commissioner have received written notice of the franchisor's intentions at least 60 days prior to the effective date of such termination, cancellation, or the expiration date of the franchise, setting forth the specific grounds for the action, and (ii) the Commissioner has determined, if requested in writing by the dealer within the 60-day period, and after a hearing on the matter, that there is good cause for the termination, cancellation, or nonrenewal of the franchise. In any case where a petition is made to the Commissioner for a determination as to good cause for the termination, cancellation, or nonrenewal of a franchise, the franchise in question shall continue in effect pending the Commissioner's decision or, if that decision is appealed to the circuit court, pending the decision of the circuit court. In any case in which a franchisor neither advises a dealer that it does not intend to renew a franchise nor takes any action to renew a franchise beyond its expiration date, the franchise in question shall continue in effect on the terms last agreed to by the parties. Notwithstanding the other provisions of this subdivision, notice of termination, cancellation, or nonrenewal may be provided to a dealer by a franchisor not less than 15 days prior to the effective date of such termination, cancellation, or nonrenewal when the grounds for such action are any of the following:

a. Insolvency of the franchised trailer dealer or filing of any petition by or against the franchised trailer dealer, under any bankruptcy or receivership law, leading to liquidation or that is intended to lead to liquidation of the franchisee's business;

b. Failure of the franchised trailer dealer to conduct its customary sales and service operations during its posted business hours for seven consecutive business days, except where the failure results from acts of God or circumstances beyond the direct control of the franchised trailer dealer;

c. Revocation of any license that the franchised trailer dealer is required to have to operate a dealership; or

d. Conviction of the dealer or any principal of the dealer of a felony.

The change or discontinuance of a marketing or distribution system of a particular line-make product by a manufacturer or distributor, while the name identification of the product is continued in

substantial form by the same or different manufacturer or distributor, may be considered to be a franchise termination, cancellation, or nonrenewal.

7. To fail to provide continued parts and service support to a dealer that holds a franchise in a discontinued line-make for at least five years from the date of such discontinuance.

8. To fail to allow a dealer the right at any time to designate a member of his family as a successor to the dealership in the event of the death or incapacity of the dealer. It shall be unlawful to prevent or refuse to honor the succession to a dealership by a member of the family of a deceased or incapacitated dealer if the franchisor has not provided to the member of the family previously designated by the dealer as his successor written notice of its objections to the succession and of such person's right to seek a hearing on the matter before the Commissioner pursuant to this article, and the Commissioner determines, if requested in writing by such member of the family within 30 days of receipt of such notice from the franchisor, and after a hearing on the matter before the Commissioner pursuant to this article, that the failure to permit or honor the succession is unreasonable under the circumstances. No member of the family may succeed to a franchise unless (i) the franchisor has been given written notice as to the identity, financial ability, and qualifications of the member of the family in question and (ii) the succession to the franchise will not involve, without the franchisor's consent, a relocation of the business.

9. To fail to ship monthly to any dealer, if ordered by the dealer, the number of new trailers of each make, series, and model needed by the dealer to receive a percentage of total new trailer sales of each make, series, and model equitably related to the total new trailer production or importation currently being achieved nationally by each make, series, and model covered under the franchise. Upon the written request of any dealer holding its sales or sales and service franchise, the manufacturer or distributor shall disclose to the dealer in writing the basis upon which new trailers are allocated, scheduled, and delivered to the dealers of the same line-make. If allocation is at issue in a request for a hearing, the dealer may demand the Commissioner to direct that the manufacturer or distributor provide to the dealer, within 30 days of such demand, all records of sales and all records of distribution of all trailers to the same line-make dealers who compete with the dealer requesting the hearing.

10. To require or otherwise coerce a dealer to underutilize the dealer's facilities.

11. To include in any franchise with a trailer dealer terms that are contrary to, prohibited by, or otherwise inconsistent with the requirements of this chapter.

12. To require under any franchise agreement a trailer dealer to pay the attorney fees of the manufacturer or distributor related to hearings and appeals brought under this article.

13. To fail to include in any franchise with a trailer dealer the following language: "If any provision herein contravenes the laws or regulations of any state or other jurisdiction wherein this agreement is to be performed, or denies access to the procedures, forums, or remedies provided for by such laws or regulations, such provision shall be deemed to be modified to conform to such laws or regulations, and all other terms and provisions shall remain in full force," or words to that effect.

§ 46.2-1573.18. Manufacturer or distributor right of first refusal.

Notwithstanding the terms of any franchise agreement, in the event of a proposed sale or transfer of a dealership, the manufacturer or distributor shall be permitted to exercise a right of first refusal to acquire the new trailer dealer's assets or ownership, if such sale or transfer is conditioned upon the manufacturer's or dealer's entering into a dealer agreement with the proposed new owner or transferee, only if all the following requirements are met:

1. To exercise its right of first refusal, the manufacturer or distributor must notify the dealer in writing within 45 days of its receipt of the completed proposal for the proposed sale or transfer;

2. The exercise of the right of first refusal will result in the dealer's and dealer owner's receiving the same or greater consideration as they have contracted to receive in connection with the proposed change of ownership or transfer;

3. The proposed sale or transfer of the dealership's assets does not involve the transfer or sale to a member or members of the family of one or more dealer owners, or to a qualified manager or a partnership or corporation controlled by such persons; and

4. The manufacturer or distributor agrees to pay the reasonable expenses, including attorney fees that do not exceed the usual, customary, and reasonable fees charged for similar work done for other clients, incurred by the proposed new owner and transferee prior to the manufacturer's or distributor's exercise of its right of first refusal in negotiating and implementing the contract for the proposed sale or transfer of the dealership or dealership assets. Notwithstanding the foregoing, no payment of such expenses and attorney fees shall be required if the dealer has not submitted or caused to be submitted an accounting of those expenses within 30 days of the dealer's receipt of the manufacturer's or distributor's written request for such an accounting. Such accounting may be requested by a manufacturer or distributor before exercising its right of first refusal.

§ 46.2-1573.19. Discontinuation of distributors.

If the contract between a distributor and a manufacturer or importer is terminated or otherwise discontinued, all franchises granted to trailer dealers in the Commonwealth by that distributor shall continue in full force and shall not be affected by the discontinuance, except that the manufacturer, factory branch, distributor, representative, or other person who undertakes to distribute trailers of the same line-make or the same trailers of a renamed line-make shall be substituted for the discontinued distributor under the existing trailer dealer franchises, and those franchises shall be modified accordingly.

§ 46.2-1573.20. Warranty obligations.

A. Each trailer manufacturer, factory branch, distributor, or distributor branch shall (i) specify in writing to each of its trailer dealers licensed in the Commonwealth the dealer's obligations for preparation, delivery, and warranty service on its products and (ii) compensate the dealer for warranty parts, service, and diagnostic work required of the dealer by the manufacturer or distributor as follows:

1. Compensation of a dealer for warranty parts, service, and diagnostic work shall not be less than the amounts charged by the dealer for the manufacturer's or distributor's original parts, service, and diagnostic work to retail customers for nonwarranty service, parts, and diagnostic work installed or performed in the dealer's service department unless the amounts are not reasonable;

2. For purposes of determining warranty parts and service compensation, menu-priced parts or services, group discounts, special event discounts, and special event promotions shall not be considered in determining amounts charged by the dealer to retail customers;

3. Increases in dealer warranty parts and service compensation and diagnostic work compensation, pursuant to this section, shall be requested by the dealer in writing, shall be based on 100 consecutive repair orders or all repair orders over a 90-day period, whichever occurs first, and, in the case of parts, shall be stated as a percentage of markup that shall be uniformly applied to all the manufacturer's or distributor's parts;

4. In the case of warranty parts compensation, the provisions of this subsection shall be effective only for model year 1992 and succeeding model years;

5. If a manufacturer or distributor furnishes a part to a dealer at no cost for use by the dealer in performing work for which the manufacturer or distributor is required to compensate the dealer under this section, the manufacturer or distributor shall compensate the dealer for the part in the same manner as warranty parts compensation, less the wholesale costs, for such part as listed in the manufacturer's current price schedules; or

6. In the case of service work, manufacturer original parts or parts otherwise specified by the manufacturer or distributor, and parts provided by a dealer either pursuant to an adjustment program as defined in § 59.1-207.34 or as otherwise requested by the manufacturer or distributor, the dealer shall be compensated in the same manner as for warranty service or parts.

This section does not apply to compensation for parts such as components, systems, fixtures, appliances, furnishings, accessories, and features that are designed, used, and maintained primarily for nonvehicular, residential purposes. Warranty audits of dealer records may be conducted by the manufacturer, factory branch, distributor, or distributor branch on a reasonable basis, and dealer claims for warranty compensation shall not be denied except for good cause, such as performance of nonwarranty repairs, lack of material documentation, fraud, or misrepresentation. Claims for dealer compensation shall be paid within 30 days of dealer submission or within 30 days of the end of an incentive program or rejected in writing for stated reasons. The manufacturer, factory branch, distributor, or distributor branch shall reserve the right to reasonable periodic audits to determine the validity of all such paid claims for dealer compensation. Any chargebacks for warranty parts or service compensation and service incentives shall only be for the 12-month period immediately following the date of the claim and, in the case of chargebacks for sales compensation only, for the 18-month period immediately following the date of claim. However, such limitations shall not be effective in the case of intentionally false or fraudulent claims.

B. It shall be unlawful for any trailer manufacturer, factory branch, distributor, or distributor branch to:

1. Fail to perform any of its warranty obligations, including tires, with respect to a trailer;

2. Fail to assume all responsibility for any liability resulting from structural or production defects;

3. Fail to include in written notices of factory recalls to trailer owners and dealers the expected date by which necessary parts and equipment will be available to dealers for the correction of defects;

4. Fail to compensate any of the trailer dealers licensed in the Commonwealth for repairs effected by the dealer of merchandise damaged in manufacture or transit to the dealer where the carrier is designated by the manufacturer, factory branch, distributor, or distributor branch;

5. Fail to compensate its trailer dealers licensed in the Commonwealth for warranty parts, work, and service pursuant to subsection A or for legal costs and expenses incurred by such dealers in connection with warranty obligations for which the manufacturer, factory branch, distributor, or distributor branch is legally responsible or that the manufacturer, factory branch, distributor, or distributor branch

imposes upon the dealer;

6. Misrepresent in any way to purchasers of trailers that warranties with respect to the manufacture, performance, or design of the trailer are made by the dealer, either as warrantor or co-warrantor;

7. Require the dealer to make warranties to customers in any manner related to the manufacture, performance, or design of the trailer; or

8. Shift or attempt to shift to the trailer dealer, directly or indirectly, any liabilities of the manufacturer, factory branch, distributor, or distributor branch under the Virginia Motor Vehicle Warranty Enforcement Act (§ 59.1-207.9 et seq.), unless such liability results from the act or omission by the dealer.

C. Notwithstanding the terms of any franchise, it shall be unlawful for any trailer manufacturer, factory branch, distributor, or distributor branch to fail to indemnify and hold harmless its trailer dealers against any losses or damages arising out of complaints, claims, or suits relating to the manufacture, assembly, or design of trailers, parts, or accessories, or other functions by the manufacturer, factory branch, distributor, or distributor branch beyond the control of the dealer, including, without limitation, the selection by the manufacturer, factory branch, distributor, or distributor branch of parts or components for the trailer or any damages to merchandise occurring in transit to the dealer where the carrier is designated by the manufacturer, factory branch, distributor, or distributor branch. The dealer shall notify the manufacturer of pending suits in which allegations are made that come within this subsection whenever reasonably practicable to do so. Every trailer dealer franchise issued to, amended, or renewed for trailer dealers in the Commonwealth shall be construed to incorporate provisions consistent with the requirements of this subsection.

D. On any new trailer, any uncorrected damage or any corrected damage exceeding three percent of the manufacturer's or distributor's suggested retail price as defined in 15 U.S.C. §§ 1231-1233, as measured by retail repair costs, must be disclosed to the dealer in writing prior to delivery. Factory mechanical repair and damage to glass, tires, and bumpers are excluded from the three percent rule when properly replaced by identical manufacturer's or distributor's original equipment or parts. Whenever a new trailer is damaged in transit, when the carrier or means of transportation is determined by the manufacturer or distributor, or whenever a trailer is otherwise damaged prior to delivery to the new trailer dealer, the new trailer dealer shall:

1. Notify the manufacturer or distributor of the damage within three business days from the date of delivery of the new trailer to the new trailer dealership or within the additional time specified in the franchise; and

2. Request from the manufacturer or distributor authorization to replace the components, parts, and accessories damaged or otherwise correct the damage, unless the damage to the trailer exceeds the three percent rule, in which case the dealer may reject the trailer within three business days.

E. If the manufacturer or distributor refuses or fails to authorize correction of such damage within 10 days after receipt of notification, or if the dealer rejects the trailer because damage exceeds the three percent rule, ownership of the new trailer shall revert to the manufacturer or distributor, and the new trailer dealer shall have no obligation, financial or otherwise, with respect to such trailer. Should either the manufacturer, distributor, or the dealer elect to correct the damage or any other damage exceeding the three percent rule, full disclosure shall be made by the dealer in writing to the buyer and an acknowledgment by the buyer is required. If there is less than three percent damage, no disclosure is required, provided that the damage has been corrected. Predelivery mechanical work shall not require a disclosure. Failure to disclose any corrected damage within the knowledge of the selling dealer to a new trailer in excess of the three percent rule shall constitute grounds for revocation of the buyer order, provided that, within 30 days of purchase, the trailer is returned to the dealer with an accompanying written notice of the grounds for revocation. In case of revocation pursuant to this section, the dealer shall accept the trailer and refund any payments made to the dealer in connection with the transaction, less a reasonable allowance for the consumer's use of the trailer as defined in § 59.1-207.11.

F. If there is a dispute between the manufacturer, factory branch, distributor, or distributor branch and the dealer with respect to any matter referred to in subsection A, B, or C, either party may petition the Commissioner in writing, within 30 days after either party has given written notice of the dispute to the other, for a hearing. The decision of the Commissioner shall be binding on the parties, subject to rights of judicial review and appeal as provided in the Administrative Process Act (§ 2.2-4000 et seq.). However, nothing contained in this section shall give the Commissioner any authority as to the content or interpretation of any manufacturer's or distributor's warranty.

§ 46.2-1573.21. Operation of dealership by manufacturer.

It shall be unlawful for any trailer manufacturer, factory branch, distributor, distributor branch, or subsidiary thereof to own, operate, or control any trailer dealership in the Commonwealth. However, this section shall not prohibit:

1. The operation by a manufacturer, factory branch, distributor, distributor branch, or subsidiary

thereof, of a dealership for a temporary period, not to exceed one year, during the transition from one owner or operator to another;

2. The ownership or control of a dealership by a manufacturer, factory branch, distributor, distributor branch, or subsidiary thereof, while the dealership is being sold under a bona fide contract or purchase option to the operator of the dealership; or

3. The ownership, operation, or control of a dealership by a manufacturer, factory branch, distributor, distributor branch, or subsidiary thereof if the Commissioner determines, after a hearing at the request of any party, that there is no dealer independent of the manufacturer or distributor, factory branch or distributor branch, or subsidiary thereof available in the community or trade area to own and operate the franchise in a manner consistent with the public interest.

§ 46.2-1573.22. Ownership of service facilities.

It shall be unlawful for any trailer manufacturer, factory branch, distributor, distributor branch, or subsidiary thereof to own, operate, or control, either directly or indirectly, any trailer warranty or service facility located in the Commonwealth. Nothing in this section shall prohibit any trailer manufacturer, factory branch, distributor, distributor branch, or subsidiary thereof from owning, operating, or controlling any warranty or service facility for warranty or service of trailers owned or operated by the manufacturer, factory branch, distributor, distributor branch, or subsidiary thereof. Nothing contained in this section shall prohibit a trailer manufacturer, factory branch, distributor, or distributor branch from performing service for reasons of compliance with an order of a court of competent jurisdiction or of warranty under Chapter 17.3 (§ 59.1-207.9 et seq.) of Title 59.1.

§ 46.2-1573.23. Hearings and other remedies; civil penalties.

A. In every case of a hearing before the Commissioner authorized under this article, the Commissioner shall give reasonable notice of each hearing to all interested parties, and the Commissioner's decision shall be binding on the parties, subject to the rights of judicial review and appeal as provided in the Administrative Process Act (§ 2.2-4000 et seq.).

B. Hearings before the Commissioner under this article shall commence within 90 days of the request for a hearing, and the Commissioner's decision shall be rendered within 60 days from the receipt of the hearing officer's recommendation. Hearings authorized under this article shall be presided over by a hearing officer selected from a list prepared by the Executive Secretary of the Supreme Court. On request of the Commissioner, the Executive Secretary will name a hearing officer from the list, selected on a rotation system administered by the Executive Secretary. The hearing officer shall provide recommendations to the Commissioner within 90 days of the conclusion of the hearing.

C. Notwithstanding any contrary provision of this article, the Commissioner shall initiate investigations, conduct hearings, and determine the rights of parties under this article whenever he is provided information indicating a possible violation of any provision of this article.

D. For purposes of any matter brought to the Commissioner under subdivisions 3, 4, 5, 6, and 9 of § 46.2-1573.16 with respect to which the Commissioner is to determine whether there is good cause for a proposed action or whether it would be unreasonable under the circumstances, the Commissioner shall consider:

1. The volume of the affected dealer's business in the relevant market area;

2. The nature and extent of the dealer's investment in its business;

3. The adequacy of the dealer's service facilities, equipment, parts, supplies, and personnel;

4. The effect of the proposed action on the community;

5. The extent and quality of the dealer's service under trailer warranties;

6. The dealer's performance under the terms of its franchise; and

7. Other economic and geographical factors reasonably associated with the proposed action.

With respect to subdivision 6, any performance standard or program for measuring dealership performance that may have a material effect on a dealer, and the application of any such standard or program by a manufacturer or distributor, shall be fair, reasonable, and equitable and, if based upon a survey, shall be based upon a statistically valid sample. Upon the request of any dealer, a manufacturer or distributor shall disclose in writing to the dealer a description of how a performance standard or program is designed and all relevant information used in the application of the performance standard or program to that dealer.

E. An interested party in a hearing held pursuant to subsection A shall comply with the effective date of compliance established by the Commissioner in his decision in such hearing, unless a stay or extension of such date is granted by the Commissioner or the Commissioner's decision is under judicial review and appeal as provided in subsection A. If, after notice to such interested party and an opportunity to comment, the Commissioner finds an interested party has not complied with his decision by the designated date of compliance, unless a stay or extension of such date has been granted by the Commissioner or the Commissioner's decision is under judicial review and appeal, the Commissioner may assess such interested party a civil penalty not to exceed $1,000 per day of noncompliance. Civil penalties collected under this subsection shall be deposited into the Transportation Trust Fund

established pursuant to § 33.2-1524.

§ 46.2-1573.24. Late model and factory repurchase franchises.

Franchised late model or factory repurchase trailer dealers shall have the same rights and obligations as provided for franchised new trailer dealers in this article, mutatis mutandis.

Article 7.4.

Motorcycle Franchises.

§ 46.2-1573.25. Motorcycle dealers filing of franchises.

Except as otherwise provided in this section, each motorcycle manufacturer, factory branch, distributor, distributor branch, or subsidiary thereof shall file with the Commissioner a true copy of each new, amended, modified, or different form or addendum offered to more than one dealer that affects the rights, responsibilities, or obligations of the parties of a franchise or sales, service, or sales and service agreement to be offered to a motorcycle dealer or prospective motorcycle dealer in the Commonwealth no later than 60 days prior to the date the franchise or sales agreement is offered. In no event shall a new, amended, modified, or different form of franchise or sales, service, or sales and service agreement be offered a motorcycle dealer in the Commonwealth until the form has been determined by the Commissioner as not containing terms inconsistent with the provisions of this chapter. At the time a filing is made with the Commissioner pursuant to this section, the manufacturer, factory branch, distributor, distributor branch, or subsidiary shall also give written notice together with a copy of the papers so filed to the affected dealer or dealers.

The provisions of this article shall not apply to a manufacturer, factory branch, distributor, distributor branch, or factory or distributor representative engaged in the manufacture or distribution of all-terrain vehicles or off-road motorcycles that does not also manufacture or does not also distribute in the Commonwealth any motorcycle designed for lawful use on the public highways.

§ 46.2-1573.26. Exemption of franchises from Retail Franchising Act.

Franchises subject to the provisions of this chapter shall not be subject to any requirement contained in Chapter 8 (§ 13.1-557 et seq.) of Title 13.1.

§ 46.2-1573.27. Coercion of retail dealer by manufacturer or distributor with respect to retail installment sales contracts and extended warranties prohibited; penalty.

A. It shall be unlawful for any manufacturer or distributor, or any officer, agent, or representative of either, to coerce or attempt to coerce any retail motorcycle dealer or prospective retail motorcycle dealer in the Commonwealth to sell or offer to sell extended warranties or to sell, assign, or transfer any retail installment sales contract obtained by the dealer in connection with the sale by him in the Commonwealth of motorcycles manufactured or sold by the manufacturer or distributor, to a specified finance company or class of finance companies or to any other specified persons by any of the following:

1. Any statement, suggestion, promise, or threat that the manufacturer or distributor will in any manner benefit or injure the dealer, whether the statement, suggestion, threat, or promise is expressed or implied or made directly or indirectly.

2. Any act that will benefit or injure the dealer.

3. Any contract, or any expressed or implied offer of contract, made directly or indirectly to the dealer, for handling the motorcycle on the condition that the dealer sell, assign, or transfer his retail installment sales contract on the motorcycle, in the Commonwealth, to a specified finance company or class of finance companies or to any other specified person.

4. Any expressed or implied statement or representation made directly or indirectly that the dealer is under any obligation whatsoever to sell, assign, or transfer any of his retail sales contracts in the Commonwealth on motorcycles manufactured or sold by the manufacturer or distributor to a finance company, or class of finance companies, or other specified person, because of any relationship or affiliation between the manufacturer or distributor and the finance company or companies or the specified person.

B. Any such statements, threats, promises, acts, contracts, or offers of contracts, when their effect may be to lessen or eliminate competition or tend to create a monopoly, are declared unfair trade practices and unfair methods of competition and are prohibited.

C. Any person violating any of the provisions of this section is guilty of a Class 1 misdemeanor.

§ 46.2-1573.28. Other coercion of dealers; transfer, grant, succession to and cancellation of dealer franchises; delivery of motorcycles, parts, and accessories.

It shall be unlawful for any manufacturer, factory branch, distributor, or distributor branch, or any field representative, officer, agent, or their representatives:

1. To coerce or attempt to coerce any dealer to accept delivery of any motorcycle or motorcycles, parts or accessories therefor, or any other commodities that have not been ordered by the dealer.

2. To coerce or attempt to coerce any dealer to enter into an agreement with the manufacturer, factory branch, distributor, or distributor branch, or representative thereof, or do any other act unfair

to the dealer, by threatening to cancel any franchise existing between the manufacturer, factory branch, distributor, distributor branch, or representative thereof and the dealer.

3. To coerce or attempt to coerce any dealer to join, contribute to, or affiliate with any advertising association.

4. To prevent or refuse to approve the sale or transfer of the ownership of a dealership by the sale of the business, stock transfer, or otherwise, or the transfer, sale, or assignment of a dealer franchise, or a change in the executive management or principal operator of the dealership, unless the franchisor provides written notice to the dealer of its objection and the reasons therefor at least 30 days prior to the proposed effective date of the transfer, sale, assignment, or change. No such objection shall be effective to prevent the sale, transfer, assignment, or change if the Commissioner has determined, if requested in writing by the dealer within 30 days after receipt of an objection to the proposed sale, transfer, or change, and after a hearing on the matter, that the failure to permit or honor the sale, transfer, assignment, or change is unreasonable under the circumstances. No franchise may be sold, assigned, or transferred unless (i) the franchisor has been given at least 90 days' prior written notice by the dealer as to the identity, financial ability, and qualifications of the proposed transferee and (ii) the sale or transfer of the franchise and business will not involve, without the franchisor's consent, a relocation of the business.

5. To grant an additional franchise for a particular line-make of motorcycle in a relevant market area in which a dealer or dealers in that line-make are already located unless the franchisor has first advised in writing, by certified mail, return receipt requested, all other dealers in the line-make in the relevant market area. No such additional franchise may be established at the proposed site unless the Commissioner has determined, if requested by a dealer of the same line-make in the relevant market area within 30 days after receipt of the franchisor's notice of intention to establish the additional franchise, and after a hearing on the matter, that there is reasonable evidence that after the grant of the new franchise, the market will support all of the dealers in that line-make in the relevant market area. Establishing a franchised dealer in a relevant market area to replace a franchised dealer that has not been in operation for more than two years shall constitute the establishment of a new franchise subject to the terms of this subdivision. The two-year period for replacing a franchised dealer shall begin on the day the franchise was terminated or, if a termination hearing was held, on the day the franchisor was legally permitted finally to terminate the franchise. This subdivision shall not apply to (i) the relocation of an existing dealer within that dealer's relevant market area if the relocation site is to be more than 10 miles distant from any other dealer for the same line-make; (ii) the relocation of an existing dealer within that dealer's relevant market area if the relocation site is to be more distant than the existing site from all other dealers of the same line-make in that relevant market area; or (iii) the relocation of an existing new motorcycle dealer within two miles of the existing site of the relocating dealer.

6. Except as otherwise provided in this subdivision and notwithstanding the terms of any franchise, to terminate, cancel, or refuse to renew the franchise of any dealer without good cause and unless (i) the dealer and the Commissioner have received written notice of the franchisor's intentions at least 60 days prior to the effective date of such termination, cancellation, or the expiration date of the franchise, setting forth the specific grounds for the action, and (ii) the Commissioner has determined, if requested in writing by the dealer within the 60-day period, and after a hearing on the matter, that there is good cause for the termination, cancellation, or nonrenewal of the franchise. In any case where a petition is made to the Commissioner for a determination as to good cause for the termination, cancellation, or nonrenewal of a franchise, the franchise in question shall continue in effect pending the Commissioner's decision or, if that decision is appealed to the circuit court, pending the decision of the circuit court. In any case in which a franchisor neither advises a dealer that it does not intend to renew a franchise nor takes any action to renew a franchise beyond its expiration date, the franchise in question shall continue in effect on the terms last agreed to by the parties. Notwithstanding the other provisions of this subdivision, notice of termination, cancellation, or nonrenewal may be provided to a dealer by a franchisor not less than 15 days prior to the effective date of such termination, cancellation, or nonrenewal when the grounds for such action are any of the following:

a. Insolvency of the franchised motorcycle dealer or filing of any petition by or against the franchised motorcycle dealer, under any bankruptcy or receivership law, leading to liquidation or that is intended to lead to liquidation of the franchisee's business;

b. Failure of the franchised motorcycle dealer to conduct its customary sales and service operations during its posted business hours for seven consecutive business days, except where the failure results from acts of God or circumstances beyond the direct control of the franchised motorcycle dealer;

c. Revocation of any license that the franchised motorcycle dealer is required to have to operate a dealership; or

d. Conviction of the dealer or any principal of the dealer of a felony.

The change or discontinuance of a marketing or distribution system of a particular line-make

product by a manufacturer or distributor, while the name identification of the product is continued in substantial form by the same or different manufacturer or distributor, may be considered to be a franchise termination, cancellation, or nonrenewal. The provisions of this paragraph shall apply to changes and discontinuances made after January 1, 1989, but they shall not be considered by any court in any case in which such a change or discontinuance occurring prior to that date has been challenged as constituting a termination, cancellation, or nonrenewal.

7. To fail to provide continued parts and service support to a dealer that holds a franchise in a discontinued line-make for at least five years from the date of such discontinuance. This requirement shall not apply to a line-make that was discontinued prior to January 1, 1989.

8. To fail to allow a dealer the right at any time to designate a member of his family as a successor to the dealership in the event of the death or incapacity of the dealer. It shall be unlawful to prevent or refuse to honor the succession to a dealership by a member of the family of a deceased or incapacitated dealer if the franchisor has not provided to the member of the family previously designated by the dealer as his successor written notice of its objections to the succession and of such person's right to seek a hearing on the matter before the Commissioner pursuant to this article, and the Commissioner determines, if requested in writing by such member of the family within 30 days of receipt of such notice from the franchisor, and after a hearing on the matter before the Commissioner pursuant to this article, that the failure to permit or honor the succession is unreasonable under the circumstances. No member of the family may succeed to a franchise unless (i) the franchisor has been given written notice as to the identity, financial ability, and qualifications of the member of the family in question and (ii) the succession to the franchise will not involve, without the franchisor's consent, a relocation of the business.

9. To fail to ship monthly to any dealer, if ordered by the dealer, the number of new motorcycles of each make, series, and model needed by the dealer to receive a percentage of total new motorcycle sales of each make, series, and model equitably related to the total new motorcycle production or importation currently being achieved nationally by each make, series, and model covered under the franchise. Upon the written request of any dealer holding its sales or sales and service franchise, the manufacturer or distributor shall disclose to the dealer in writing the basis upon which new motorcycles are allocated, scheduled, and delivered to the dealers of the same line-make. If allocation is at issue in a request for a hearing, the dealer may demand the Commissioner to direct that the manufacturer or distributor provide to the dealer, within 30 days of such demand, all records of sales and all records of distribution of all motorcycles to the same line-make dealers who compete with the dealer requesting the hearing.

10. To require or otherwise coerce a dealer to underutilize the dealer's facilities.

11. To include in any franchise with a motorcycle dealer terms that are contrary to, prohibited by, or otherwise inconsistent with the requirements of this chapter.

12. To require under any franchise agreement a motorcycle dealer to pay the attorney fees of the manufacturer or distributor related to hearings and appeals brought under this article.

13. To fail to include in any franchise with a motorcycle dealer the following language: "If any provision herein contravenes the laws or regulations of any state or other jurisdiction wherein this agreement is to be performed, or denies access to the procedures, forums, or remedies provided for by such laws or regulations, such provision shall be deemed to be modified to conform to such laws or regulations, and all other terms and provisions shall remain in full force," or words to that effect.

14. To include in any franchise agreement with a motorcycle dealer terms that prohibit a motorcycle dealer from exercising his right to a trial by jury in any action where such right otherwise exists.

§ 46.2-1573.29. When discontinuation, cancellation, or nonrenewal of franchise unfair.

A discontinuation, cancellation, or nonrenewal of a franchise agreement is unfair if it is not clearly permitted by the franchise agreement, is not undertaken in good faith, is not undertaken for good cause, or is based on an alleged breach of the franchise agreement that is not in fact a material and substantial breach.

§ 46.2-1573.30. Repurchase of vehicles, parts, and equipment in the event of involuntary discontinuation, cancellation, or nonrenewal of franchise agreement.

A. In the event of any involuntary discontinuation, cancellation, or nonrenewal of a franchise agreement, the manufacturer or distributor shall, within 60 days from the effective date of the discontinuation, cancellation, or nonrenewal of a franchise agreement, repurchase at the price equal to the amount paid therefor by the motorcycle dealer, less all incentives and allowances received by the dealer, (i) all new, unused, undamaged, and unaltered motorcycles, all-terrain vehicles, or off-road motorcycles of the current or previous model year that the manufacturer or distributor sold to the dealer and (ii) any other such motorcycle, all-terrain vehicle, or off-road motorcycle that it sold to the dealer not more than 180 days prior to the notice of termination. The foregoing provisions of this subsection shall apply only if the dealer transfers to the manufacturer or distributor full right and legal

title to the motorcycles, all-terrain vehicles, and off-road motorcycles prior to their repurchase.

B. In the event of any involuntary discontinuation, cancellation, or nonrenewal of a franchise agreement, the manufacturer or distributor shall, if so requested by the dealer within the same 60-day period, also repurchase all genuine new and unused motorcycle, all-terrain vehicle, and off-road motorcycle parts and accessories that the manufacturer or distributor sold to the dealer so long as such parts and accessories are undamaged, in their original packaging, and listed in the current parts and accessories price list of the manufacturer or distributor. Such parts and accessories shall be repurchased at a price equal to the wholesale price stated in the current parts and accessories price list of the manufacturer or distributor, less all incentives and allowances received by the dealer and without reduction for such repurchase or for processing or handling the repurchase. The foregoing provisions of this subsection shall apply only if the dealer transfers to the manufacturer or distributor full right and legal title to the parts and accessories prior to their repurchase.

C. In the event of any involuntary discontinuation, cancellation, or nonrenewal of a franchise agreement, the manufacturer or distributor shall, if so requested by the dealer within the same 60-day period, repurchase the new and used equipment that the manufacturer or distributor sold to the dealer at its then fair market value, including signs, special tools, and manuals that the manufacturer or distributor required the dealer to purchase. The foregoing provisions of this subsection shall apply only if the dealer transfers to the manufacturer or distributor full right and legal title to the equipment prior to its repurchase.

§ 46.2-1573.31. Manufacturer or distributor right of first refusal.

Notwithstanding the terms of any franchise agreement, in the event of a proposed sale or transfer of a dealership, the manufacturer or distributor shall be permitted to exercise a right of first refusal to acquire the new motorcycle dealer's assets or ownership, if such sale or transfer is conditioned upon the manufacturer's or dealer's entering into a dealer agreement with the proposed new owner or transferee, only if all the following requirements are met:

1. To exercise its right of first refusal, the manufacturer or distributor must notify the dealer in writing within 45 days of its receipt of the completed proposal for the proposed sale or transfer;

2. The exercise of the right of first refusal will result in the dealer's and dealer owner's receiving the same or greater consideration as they have contracted to receive in connection with the proposed change of ownership or transfer;

3. The proposed sale or transfer of the dealership's assets does not involve the transfer or sale to a member or members of the family of one or more dealer owners, or to a qualified manager or a partnership or corporation controlled by such persons; and

4. The manufacturer or distributor agrees to pay the reasonable expenses, including attorney fees that do not exceed the usual, customary, and reasonable fees charged for similar work done for other clients, incurred by the proposed new owner and transferee prior to the manufacturer's or distributor's exercise of its right of first refusal in negotiating and implementing the contract for the proposed sale or transfer of the dealership or dealership assets. Notwithstanding the foregoing, no payment of such expenses and attorney's fees shall be required if the dealer has not submitted or caused to be submitted an accounting of those expenses within 30 days of the dealer's receipt of the manufacturer's or distributor's written request for such an accounting. Such accounting may be requested by a manufacturer or distributor before exercising its right of first refusal.

§ 46.2-1573.32. Discontinuation of distributors.

If the contract between a distributor and a manufacturer or importer is terminated or otherwise discontinued, all franchises granted to motorcycle dealers in the Commonwealth by that distributor shall continue in full force and shall not be affected by the discontinuance, except that the manufacturer, factory branch, distributor, representative, or other person who undertakes to distribute motorcycles of the same line-make or the same motorcycles of a renamed line-make shall be substituted for the discontinued distributor under the existing motorcycle dealer franchises, and those franchises shall be modified accordingly.

§ 46.2-1573.33. Warranty obligations.

A. Each motorcycle manufacturer, factory branch, distributor, or distributor branch shall (i) specify in writing to each of its motorcycle dealers licensed in the Commonwealth the dealer's obligations for preparation, delivery, and warranty service on its products and (ii) compensate the dealer for warranty parts, service, and diagnostic work required of the dealer by the manufacturer or distributor as follows:

1. Compensation of a dealer for warranty parts, service, and diagnostic work shall not be less than the amounts charged by the dealer for the manufacturer's or distributor's original parts, service, and diagnostic work to retail customers for nonwarranty service, parts, and diagnostic work installed or performed in the dealer's service department unless the amounts are not reasonable;

2. For purposes of determining warranty parts and service compensation, menu-priced parts or services, group discounts, special event discounts, and special event promotions shall not be considered in determining amounts charged by the dealer to retail customers;

3. Increases in dealer warranty parts and service compensation and diagnostic work compensation, pursuant to this section, shall be requested by the dealer in writing, shall be based on 100 consecutive repair orders or all repair orders over a 90-day period, whichever occurs first, and, in the case of parts, shall be stated as a percentage of markup that shall be uniformly applied to all the manufacturer's or distributor's parts;

4. In the case of warranty parts compensation, the provisions of this subsection shall be effective only for model year 1992 and succeeding model years;

5. If a manufacturer or distributor furnishes a part to a dealer at no cost for use by the dealer in performing work for which the manufacturer or distributor is required to compensate the dealer under this section, the manufacturer or distributor shall compensate the dealer for the part in the same manner as warranty parts compensation, less the wholesale costs, for such part as listed in the manufacturer's current price schedules. A manufacturer or distributor may pay the dealer a reasonable handling fee instead of the compensation otherwise required by this subsection for special high-performance complete engine assemblies in limited production motorcycles that constitute less than five percent of model production furnished to the dealer at no cost, if the manufacturer or distributor excludes such special high-performance complete engine assemblies in determining whether the amounts requested by the dealer for warranty compensation are consistent with the amounts that the dealer charges its other retail service customers for parts used by the dealer to perform similar work; or

6. In the case of service work, manufacturer original parts or parts otherwise specified by the manufacturer or distributor, and parts provided by a dealer either pursuant to an adjustment program as defined in § 59.1-207.34 or as otherwise requested by the manufacturer or distributor, the dealer shall be compensated in the same manner as for warranty service or parts.

Warranty audits of dealer records may be conducted by the manufacturer, factory branch, distributor, or distributor branch on a reasonable basis, and dealer claims for warranty compensation shall not be denied except for good cause, such as performance of nonwarranty repairs, lack of material documentation, fraud, or misrepresentation. Claims for dealer compensation shall be paid within 30 days of dealer submission or within 30 days of the end of an incentive program or rejected in writing for stated reasons. The manufacturer, factory branch, distributor, or distributor branch shall reserve the right to reasonable periodic audits to determine the validity of all such paid claims for dealer compensation. Any chargebacks for warranty parts or service compensation and service incentives shall only be for the 12-month period immediately following the date of the claim and, in the case of chargebacks for sales compensation only, for the 18-month period immediately following the date of claim. However, such limitations shall not be effective in the case of intentionally false or fraudulent claims.

B. It shall be unlawful for any motorcycle manufacturer, factory branch, distributor, or distributor branch to:

1. Fail to perform any of its warranty obligations, including tires, with respect to a motorcycle;

2. Fail to assume all responsibility for any liability resulting from structural or production defects;

3. Fail to include in written notices of factory recalls to motorcycle owners and dealers the expected date by which necessary parts and equipment will be available to dealers for the correction of defects;

4. Fail to compensate any of the motorcycle dealers licensed in the Commonwealth for repairs effected by the dealer of merchandise damaged in manufacture or transit to the dealer where the carrier is designated by the manufacturer, factory branch, distributor, or distributor branch;

5. Fail to compensate its motorcycle dealers licensed in the Commonwealth for warranty parts, work, and service pursuant to subsection A or for legal costs and expenses incurred by such dealers in connection with warranty obligations for which the manufacturer, factory branch, distributor, or distributor branch is legally responsible or that the manufacturer, factory branch, distributor, or distributor branch imposes upon the dealer;

6. Misrepresent in any way to purchasers of motorcycles that warranties with respect to the manufacture, performance, or design of the motorcycle are made by the dealer, either as warrantor or co-warrantor;

7. Require the dealer to make warranties to customers in any manner related to the manufacture, performance, or design of the motorcycle; or

8. Shift or attempt to shift to the motorcycle dealer, directly or indirectly, any liabilities of the manufacturer, factory branch, distributor, or distributor branch under the Virginia Motor Vehicle Warranty Enforcement Act (§ 59.1-207.9 et seq.), unless such liability results from the act or omission by the dealer.

C. Notwithstanding the terms of any franchise, it shall be unlawful for any motorcycle manufacturer, factory branch, distributor, or distributor branch to fail to indemnify and hold harmless its motorcycle dealers against any losses or damages arising out of complaints, claims, or suits relating to the manufacture, assembly, or design of motorcycles, parts, or accessories, or other functions by the

manufacturer, factory branch, distributor, or distributor branch beyond the control of the dealer, including, without limitation, the selection by the manufacturer, factory branch, distributor, or distributor branch of parts or components for the motorcycle or any damages to merchandise occurring in transit to the dealer where the carrier is designated by the manufacturer, factory branch, distributor, or distributor branch. The dealer shall notify the manufacturer of pending suits in which allegations are made that come within this subsection whenever reasonably practicable to do so. Every motorcycle dealer franchise issued to, amended, or renewed for motorcycle dealers in the Commonwealth shall be construed to incorporate provisions consistent with the requirements of this subsection.

D. On any new motorcycle, any uncorrected damage or any corrected damage exceeding three percent of the manufacturer's or distributor's suggested retail price as defined in 15 U.S.C. §§ 1231-1233, as measured by retail repair costs, must be disclosed to the dealer in writing prior to delivery. Factory mechanical repair and damage to tires are excluded from the three percent rule when properly replaced by identical manufacturer's or distributor's original equipment or parts. Whenever a new motorcycle is damaged in transit, when the carrier or means of transportation is determined by the manufacturer or distributor, or whenever a motorcycle is otherwise damaged prior to delivery to the new motorcycle dealer, the new motorcycle dealer shall:

1. Notify the manufacturer or distributor of the damage within three business days from the date of delivery of the new motorcycle to the new motorcycle dealership or within the additional time specified in the franchise; and

2. Request from the manufacturer or distributor authorization to replace the components, parts, and accessories damaged or otherwise correct the damage, unless the damage to the motorcycle exceeds the three percent rule, in which case the dealer may reject the motorcycle within three business days.

E. If the manufacturer or distributor refuses or fails to authorize correction of such damage within 10 days after receipt of notification, or if the dealer rejects the motorcycle because damage exceeds the three percent rule, ownership of the new motorcycle shall revert to the manufacturer or distributor, and the new motorcycle dealer shall have no obligation, financial or otherwise, with respect to such motorcycle. Should either the manufacturer, distributor, or the dealer elect to correct the damage or any other damage exceeding the three percent rule, full disclosure shall be made by the dealer in writing to the buyer and an acknowledgment by the buyer is required. If there is less than three percent damage, no disclosure is required, provided the damage has been corrected. Predelivery mechanical work shall not require a disclosure. Failure to disclose any corrected damage within the knowledge of the selling dealer to a new motorcycle in excess of the three percent rule shall constitute grounds for revocation of the buyer order, provided that, within 30 days of purchase, the motorcycle is returned to the dealer with an accompanying written notice of the grounds for revocation. In case of revocation pursuant to this section, the dealer shall accept the motorcycle and refund any payments made to the dealer in connection with the transaction, less a reasonable allowance for the consumer's use of the motorcycle as defined in § 59.1-207.11.

F. If there is a dispute between the manufacturer, factory branch, distributor, or distributor branch and the dealer with respect to any matter referred to in subsection A, B, or C, either party may petition the Commissioner in writing, within 30 days after either party has given written notice of the dispute to the other, for a hearing. The decision of the Commissioner shall be binding on the parties, subject to rights of judicial review and appeal as provided in the Administrative Process Act (§ 2.2-4000 et seq.). However, nothing contained in this section shall give the Commissioner any authority as to the content or interpretation of any manufacturer's or distributor's warranty.

§ 46.2-1573.34. Operation of dealership by manufacturer.

It shall be unlawful for any motorcycle manufacturer, factory branch, distributor, distributor branch, or subsidiary thereof to own, operate, or control any motorcycle dealership in the Commonwealth. However, this section shall not prohibit:

1. The operation by a manufacturer, factory branch, distributor, distributor branch, or subsidiary thereof of a dealership for a temporary period, not to exceed one year, during the transition from one owner or operator to another;

2. The ownership or control of a dealership by a manufacturer, factory branch, distributor, distributor branch, or subsidiary thereof, while the dealership is being sold under a bona fide contract or purchase option to the operator of the dealership; or

3. The ownership, operation, or control of a dealership by a manufacturer, factory branch, distributor, distributor branch, or subsidiary thereof if the Commissioner determines, after a hearing at the request of any party, that there is no dealer independent of the manufacturer or distributor, factory branch or distributor branch, or subsidiary thereof available in the community or trade area to own and operate the franchise in a manner consistent with the public interest.

§ 46.2-1573.35. Ownership of service facilities.

It shall be unlawful for any motorcycle manufacturer, factory branch, distributor, distributor branch, or subsidiary thereof to own, operate, or control, either directly or indirectly, any motorcycle warranty

or service facility located in the Commonwealth. Nothing in this section shall prohibit any motorcycle manufacturer, factory branch, distributor, distributor branch, or subsidiary thereof from owning, operating, or controlling any warranty or service facility for warranty or service of motorcycles owned or operated by the manufacturer, factory branch, distributor, distributor branch, or subsidiary thereof. Nothing contained in this section shall prohibit a motorcycle manufacturer, factory branch, distributor, or distributor branch from performing service for reasons of compliance with an order of a court of competent jurisdiction or of warranty under Chapter 17.3 (§ 59.1-207.9 et seq.) of Title 59.1.

§ 46.2-1573.36. Hearings and other remedies; civil penalties.

A. In every case of a hearing before the Commissioner authorized under this article, the Commissioner shall give reasonable notice of each hearing to all interested parties, and the Commissioner's decision shall be binding on the parties, subject to the rights of judicial review and appeal as provided in the Administrative Process Act (§ 2.2-4000 et seq.).

B. Hearings before the Commissioner under this article shall commence within 90 days of the request for a hearing, and the Commissioner's decision shall be rendered within 60 days from the receipt of the hearing officer's recommendation. Hearings authorized under this article shall be presided over by a hearing officer selected from a list prepared by the Executive Secretary of the Supreme Court. On request of the Commissioner, the Executive Secretary will name a hearing officer from the list, selected on a rotation system administered by the Executive Secretary. The hearing officer shall provide recommendations to the Commissioner within 90 days of the conclusion of the hearing.

C. Notwithstanding any contrary provision of this article, the Commissioner shall initiate investigations, conduct hearings, and determine the rights of parties under this article whenever he is provided information indicating a possible violation of any provision of this article.

D. For purposes of any matter brought to the Commissioner under subdivisions 3, 4, 5, 6, and 9 of § 46.2-1573.28 with respect to which the Commissioner is to determine whether there is good cause for a proposed action or whether it would be unreasonable under the circumstances, the Commissioner shall consider:

1. The volume of the affected dealer's business in the relevant market area;

2. The nature and extent of the dealer's investment in its business;

3. The adequacy of the dealer's service facilities, equipment, parts, supplies, and personnel;

4. The effect of the proposed action on the community;

5. The extent and quality of the dealer's service under motorcycle warranties;

6. The dealer's performance under the terms of its franchise; and

7. Other economic and geographical factors reasonably associated with the proposed action.

With respect to subdivision 6, any performance standard or program for measuring dealership performance that may have a material effect on a dealer, and the application of any such standard or program by a manufacturer or distributor, shall be fair, reasonable, and equitable and, if based upon a survey, shall be based upon a statistically valid sample. Upon the request of any dealer, a manufacturer or distributor shall disclose in writing to the dealer a description of how a performance standard or program is designed and all relevant information used in the application of the performance standard or program to that dealer.

E. An interested party in a hearing held pursuant to subsection A shall comply with the effective date of compliance established by the Commissioner in his decision in such hearing, unless a stay or extension of such date is granted by the Commissioner or the Commissioner's decision is under judicial review and appeal as provided in subsection A. If, after notice to such interested party and an opportunity to comment, the Commissioner finds an interested party has not complied with his decision by the designated date of compliance, unless a stay or extension of such date has been granted by the Commissioner or the Commissioner's decision is under judicial review and appeal, the Commissioner may assess such interested party a civil penalty not to exceed $1,000 per day of noncompliance. Civil penalties collected under this subsection shall be deposited into the Transportation Trust Fund established pursuant to § 33.2-1524.

§ 46.2-1573.37. Late model and factory repurchase franchises.

Franchised late model or factory repurchase motorcycle dealers shall have the same rights and obligations as provided for franchised new motorcycle dealers in this article, mutatis mutandis.

§ 58.1-2405. Basis of tax.

A. In the case of the sale or use of a motor vehicle upon which the pricing information is required by federal law to be posted, the Commissioner may collect the tax upon the basis of the total sale price shown on such document; however, if the Commissioner is satisfied that the purchaser has paid less than such price, by such evidence as the Commissioner may require, he may assess and collect the tax upon the basis of the sale price so found by him. In no case shall such lesser price include credits for trade-in or any other transaction of such nature.

B. In the case of the sale or use of a motor vehicle which is not a new motor vehicle, the

Commissioner may employ such publications, sources of information, and other data as are customarily employed in ascertaining the maximum sale price of such used motor vehicles but in no case shall any credit be allowed for trade-in, prior rental or any other transaction of like nature.

C. In the case of the sale or use of a motor vehicle, which is not a new motor vehicle, between individuals who are not required to be licensed as dealers or salespersons under the provisions of ~~§§~~ *§* 46.2-1508 ~~and 46.2-1908~~, the Commissioner may collect the tax upon the basis of the total sale price as established by such evidence as the Commissioner may require; provided that if such motor vehicle is no more than five years old and is listed in a recognized pricing guide, the total sale price shall not be less than the value listed in such pricing guide for such vehicle, less an allowance of $1,500, unless the purchaser shall execute an affidavit under penalty of perjury stating a lesser total sale price and declaring such sale or use to be a bona fide transaction for full value. In using a recognized pricing guide, the Commissioner shall use the trade-in value specified in such guide, with no additions for optional equipment or subtractions for mileage, so long as uniformly applied for all types of motor vehicles. In no case shall any credit be allowed for trade-in, prior rental, or any other transaction of like nature.

§ 58.1-3506. Other classifications of tangible personal property for taxation.

A. The items of property set forth below are each declared to be a separate class of property and shall constitute a classification for local taxation separate from other classifications of tangible personal property provided in this chapter:

1. a. Boats or watercraft weighing five tons or more, not used solely for business purposes;

b. Boats or watercraft weighing less than five tons, not used solely for business purposes;

2. Aircraft having a maximum passenger seating capacity of no more than 50 that are owned and operated by scheduled air carriers operating under certificates of public convenience and necessity issued by the State Corporation Commission or the Civil Aeronautics Board;

3. Aircraft having a registered empty gross weight equal to or greater than 20,000 pounds that are not owned or operated by scheduled air carriers recognized under federal law, but not including any aircraft described in subdivision 4;

4. Aircraft that are (i) considered Warbirds, manufactured and intended for military use, excluding those manufactured after 1954, and (ii) used only for (a) exhibit or display to the general public and otherwise used for educational purposes (including such flights as are necessary for testing, maintaining, or preparing such aircraft for safe operation), or (b) airshow and flight demonstrations (including such flights necessary for testing, maintaining, or preparing such aircraft for safe operation), shall constitute a new class of property. Such class of property shall not include any aircraft used for commercial purposes, including transportation and other services for a fee;

5. All other aircraft not included in subdivisions A 2, A 3, or A 4 and flight simulators;

6. Antique motor vehicles as defined in § 46.2-100 which may be used for general transportation purposes as provided in subsection C of § 46.2-730;

7. Tangible personal property used in a research and development business;

8. Heavy construction machinery not used for business purposes, including ~~but not limited to~~ land movers, bulldozers, front-end loaders, graders, packers, power shovels, cranes, pile drivers, forest harvesting and silvicultural activity equipment and ditch and other types of diggers;

9. Generating equipment purchased after December 31, 1974, for the purpose of changing the energy source of a manufacturing plant from oil or natural gas to coal, wood, wood bark, wood residue, or any other alternative energy source for use in manufacturing and any cogeneration equipment purchased to achieve more efficient use of any energy source. Such generating equipment and cogeneration equipment shall include, without limitation, such equipment purchased by firms engaged in the business of generating electricity or steam, or both;

10. Vehicles without motive power, used or designed to be used as manufactured homes as defined in § 36-85.3;

11. Computer hardware used by businesses primarily engaged in providing data processing services to other nonrelated or nonaffiliated businesses;

12. Privately owned pleasure boats and watercraft, 18 feet and over, used for recreational purposes only;

13. Privately owned vans with a seating capacity of not less than seven nor more than 15 persons, including the driver, used exclusively pursuant to a ridesharing arrangement as defined in § 46.2-1400;

14. Motor vehicles specially equipped to provide transportation for physically handicapped individuals;

15. Motor vehicles (i) owned by members of a volunteer rescue squad or volunteer fire department or (ii) leased by members of a volunteer rescue squad or volunteer fire department if the member is obligated by the terms of the lease to pay tangible personal property tax on the motor vehicle. One motor vehicle that is owned by each volunteer rescue squad member or volunteer fire department member, or leased by each volunteer rescue squad member or volunteer fire department member if the

member is obligated by the terms of the lease to pay tangible personal property tax on the motor vehicle, may be specially classified under this section, provided the volunteer rescue squad member or volunteer fire department member regularly responds to emergency calls. The volunteer shall furnish the commissioner of revenue, or other assessing officer, with a certification by the chief or head of the volunteer organization, that the volunteer is a member of the volunteer rescue squad or fire department who regularly responds to calls or regularly performs other duties for the rescue squad or fire department, and the motor vehicle owned or leased by the volunteer rescue squad member or volunteer fire department member is identified. The certification shall be submitted by January 31 of each year to the commissioner of revenue or other assessing officer; however, the commissioner of revenue or other assessing officer shall be authorized, in his discretion, and for good cause shown and without fault on the part of the member, to accept a certification after the January 31 deadline. In any county that prorates the assessment of tangible personal property pursuant to § 58.1-3516, a replacement vehicle may be certified and classified pursuant to this subsection when the vehicle certified as of the immediately prior January date is transferred during the tax year;

16. Motor vehicles (i) owned by auxiliary members of a volunteer rescue squad or volunteer fire department or (ii) leased by auxiliary members of a volunteer rescue squad or volunteer fire department if the member is obligated by the terms of the lease to pay tangible personal property tax on the motor vehicle. One motor vehicle that is regularly used by each auxiliary volunteer fire department or rescue squad member may be specially classified under this section. The auxiliary member shall furnish the commissioner of revenue, or other assessing officer, with a certification by the chief or head of the volunteer organization, that the volunteer is an auxiliary member of the volunteer rescue squad or fire department who regularly performs duties for the rescue squad or fire department, and the motor vehicle is identified as regularly used for such purpose; however, if a volunteer rescue squad or fire department member and an auxiliary member are members of the same household, that household shall be allowed no more than two special classifications under this subdivision or subdivision 15. The certification shall be submitted by January 31 of each year to the commissioner of revenue or other assessing officer; however, the commissioner of revenue or other assessing officer shall be authorized, in his discretion, and for good cause shown and without fault on the part of the member, to accept a certification after the January 31 deadline;

17. Motor vehicles owned by a nonprofit organization and used to deliver meals to homebound persons or provide transportation to senior or handicapped citizens in the community to carry out the purposes of the nonprofit organization;

18. Privately owned camping trailers as defined in § 46.2-100, and privately owned travel trailers as defined in § ~~46.2-1900~~ *46.2-1500*, which are used for recreational purposes only, and privately owned trailers as defined in § 46.2-100, which are designed and used for the transportation of horses except those trailers described in subdivision A 11 of § 58.1-3505;

19. One motor vehicle owned and regularly used by a veteran who has either lost, or lost the use of, one or both legs, or an arm or a hand, or who is blind or who is permanently and totally disabled as certified by the Department of Veterans Services. In order to qualify, the veteran shall provide a written statement to the commissioner of revenue or other assessing officer from the Department of Veterans Services that the veteran has been so designated or classified by the Department of Veterans Services as to meet the requirements of this section, and that his disability is service-connected. For purposes of this section, a person is blind if he meets the provisions of § 46.2-100;

20. Motor vehicles (i) owned by persons who have been appointed to serve as auxiliary police officers pursuant to Article 3 (§ 15.2-1731 et seq.) of Chapter 17 of Title 15.2 or (ii) leased by persons who have been so appointed to serve as auxiliary police officers if the person is obligated by the terms of the lease to pay tangible personal property tax on the motor vehicle. One motor vehicle that is regularly used by each auxiliary police officer to respond to auxiliary police duties may be specially classified under this section. In order to qualify for such classification, any auxiliary police officer who applies for such classification shall identify the vehicle for which this classification is sought, and shall furnish the commissioner of revenue or other assessing officer with a certification from the governing body that has appointed such auxiliary police officer or from the official who has appointed such auxiliary officers. That certification shall state that the applicant is an auxiliary police officer who regularly uses a motor vehicle to respond to auxiliary police duties, and it shall state that the vehicle for which the classification is sought is the vehicle that is regularly used for that purpose. The certification shall be submitted by January 31 of each year to the commissioner of revenue or other assessing officer; however, the commissioner of revenue or other assessing officer shall be authorized, in his discretion, and for good cause shown and without fault on the part of the member, to accept a certification after the January 31 deadline;

21. Until the first to occur of June 30, 2019, or the date that a special improvements tax is no longer levied under § 15.2-4607 on property within a Multicounty Transportation Improvement District created

pursuant to Chapter 46 (§ 15.2-4600 et seq.) of Title 15.2, tangible personal property that is used in manufacturing, testing, or operating satellites within a Multicounty Transportation Improvement District, provided that such business personal property is put into service within the District on or after July 1, 1999;

22. Motor vehicles which use clean special fuels as defined in § 46.2-749.3, which shall not include any vehicle described in subdivision 38 or 40;

23. Wild or exotic animals kept for public exhibition in an indoor or outdoor facility that is properly licensed by the federal government, the Commonwealth, or both, and that is properly zoned for such use. "Wild animals" means any animals that are found in the wild, or in a wild state, within the boundaries of the United States, its territories or possessions. "Exotic animals" means any animals that are found in the wild, or in a wild state, and are native to a foreign country;

24. Furniture, office, and maintenance equipment, exclusive of motor vehicles, that are owned and used by an organization whose real property is assessed in accordance with § 58.1-3284.1 and that is used by that organization for the purpose of maintaining or using the open or common space within a residential development;

25. Motor vehicles, trailers, and semitrailers with a gross vehicle weight of 10,000 pounds or more used to transport property for hire by a motor carrier engaged in interstate commerce;

26. All tangible personal property employed in a trade or business other than that described in subdivisions A 1 through A 19, except for subdivision A 17, of § 58.1-3503;

27. Programmable computer equipment and peripherals employed in a trade or business;

28. Privately owned pleasure boats and watercraft, motorized and under 18 feet, used for recreational purposes only;

29. Privately owned pleasure boats and watercraft, nonmotorized and under 18 feet, used for recreational purposes only;

30. Privately owned motor homes as defined in § 46.2-100 that are used for recreational purposes only;

31. Tangible personal property used in the provision of Internet services. For purposes of this subdivision, "Internet service" means a service, including an Internet Web-hosting service, that enables users to access content, information, electronic mail, and the Internet as part of a package of services sold to customers;

32. Motor vehicles (i) owned by persons who serve as auxiliary, reserve, volunteer, or special deputy sheriffs or (ii) leased by persons who serve as auxiliary, reserve, volunteer, or special deputy sheriffs if the person is obligated by the terms of the lease to pay tangible personal property tax on the motor vehicle. For purposes of this subdivision, the term "auxiliary deputy sheriff" means auxiliary, reserve, volunteer, or special deputy sheriff. One motor vehicle that is regularly used by each auxiliary deputy sheriff to respond to auxiliary deputy sheriff duties may be specially classified under this section. In order to qualify for such classification, any auxiliary deputy sheriff who applies for such classification shall identify the vehicle for which this classification is sought, and shall furnish the commissioner of revenue or other assessing officer with a certification from the governing body that has appointed such auxiliary deputy sheriff or from the official who has appointed such auxiliary deputy sheriff. That certification shall state that the applicant is an auxiliary deputy sheriff who regularly uses a motor vehicle to respond to such auxiliary duties, and it shall state that the vehicle for which the classification is sought is the vehicle that is regularly used for that purpose. The certification shall be submitted by January 31 of each year to the commissioner of revenue or other assessing officer; however, the commissioner of revenue or other assessing officer shall be authorized, in his discretion, and for good cause shown and without fault on the part of the member, to accept a certification after the January 31 deadline;

33. Forest harvesting and silvicultural activity equipment;

34. Equipment used primarily for research, development, production, or provision of biotechnology for the purpose of developing or providing products or processes for specific commercial or public purposes, including~~,~~ ~~but not limited to,~~ medical, pharmaceutical, nutritional, and other health-related purposes; agricultural purposes; or environmental purposes but not for human cloning purposes as defined in § 32.1-162.21 or for products or purposes related to human embryo stem cells. For purposes of this section, biotechnology equipment means equipment directly used in activities associated with the science of living things;

35. Boats or watercraft weighing less than five tons, used for business purposes only;

36. Boats or watercraft weighing five tons or more, used for business purposes only;

37. Tangible personal property which is owned and operated by a service provider who is not a CMRS provider and is not licensed by the FCC used to provide, for a fee, wireless broadband Internet service. For purposes of this subdivision, "wireless broadband Internet service" means a service that enables customers to access, through a wireless connection at an upload or download bit rate of more than one megabyte per second, Internet service, as defined in § 58.1-602, as part of a package of

services sold to customers;

38. Low-speed vehicles as defined in § 46.2-100;

39. Motor vehicles with a seating capacity of not less than 30 persons, including the driver;

40. Motor vehicles powered solely by electricity;

41. Tangible personal property designed and used primarily for the purpose of manufacturing a product from renewable energy as defined in § 56-576;

42. Motor vehicles leased by a county, city, town, or constitutional officer if the locality or constitutional officer is obligated by the terms of the lease to pay tangible personal property tax on the motor vehicle;

43. Computer equipment and peripherals used in a data center. For purposes of this subdivision, "data center" means a facility whose primary services are the storage, management, and processing of digital data and is used to house (i) computer and network systems, including associated components such as servers, network equipment and appliances, telecommunications, and data storage systems; (ii) systems for monitoring and managing infrastructure performance; (iii) equipment used for the transformation, transmission, distribution, or management of at least one megawatt of capacity of electrical power and cooling, including substations, uninterruptible power supply systems, all electrical plant equipment, and associated air handlers; (iv) Internet-related equipment and services; (v) data communications connections; (vi) environmental controls; (vii) fire protection systems; and (viii) security systems and services;

44. Motor vehicles (i) owned by persons who serve as uniformed members of the Virginia Defense Force pursuant to Article 4.2 (§ 44-54.4 et seq.) of Chapter 1 of Title 44 or (ii) leased by persons who serve as uniformed members of the Virginia Defense Force pursuant to Article 4.2 (§ 44-54.4 et seq.) of Chapter 1 of Title 44 if the person is obligated by the terms of the lease to pay tangible personal property tax on the motor vehicle. One motor vehicle that is regularly used by a uniformed member of the Virginia Defense Force to respond to his official duties may be specially classified under this section. In order to qualify for such classification, any person who applies for such classification shall identify the vehicle for which the classification is sought and shall furnish to the commissioner of the revenue or other assessing officer a certification from the Adjutant General of the Department of Military Affairs under § 44-11. That certification shall state that (a) the applicant is a uniformed member of the Virginia Defense Force who regularly uses a motor vehicle to respond to his official duties, and (b) the vehicle for which the classification is sought is the vehicle that is regularly used for that purpose. The certification shall be submitted by January 31 of each year to the commissioner of the revenue or other assessing officer; however, the commissioner of revenue or other assessing officer shall be authorized, in his discretion, and for good cause shown and without fault on the part of the member, to accept a certification after the January 31 deadline; and

45. If a locality has adopted an ordinance pursuant to subsection D of § 58.1-3703, tangible personal property of a business that qualifies under such ordinance for the first two tax years in which the business is subject to tax upon its personal property pursuant to this chapter. If a locality has not adopted such ordinance, this classification shall apply to the tangible personal property for such first two tax years of a business that otherwise meets the requirements of subsection D of § 58.1-3703.

B. The governing body of any county, city or town may levy a tax on the property enumerated in subsection A at different rates from the tax levied on other tangible personal property. The rates of tax and the rates of assessment shall (i) for purposes of subdivisions A 1, 2, 3, 4, 5, 6, 8, 11 through 20, 22 through 24, and 26 through 45, not exceed that applicable to the general class of tangible personal property, (ii) for purposes of subdivisions A 7, ~~A~~ 9, ~~A~~ 21, and ~~A~~ 25, not exceed that applicable to machinery and tools, and (iii) for purposes of subdivision A 10, equal that applicable to real property. If a motor vehicle is included in multiple classifications under subsection A, then the rate of tax shall be the lowest rate assigned to such classifications. If computer equipment and peripherals used in a data center could be included in classifications set forth in subdivision A 11, 26, 27, or 43, then the computer equipment and peripherals used in a data center shall be taxed at the lowest rate available under subdivision A 11, 26, 27, or 43.

C. Notwithstanding any other provision of this section, for any qualifying vehicle, as such term is defined in § 58.1-3523, (i) included in any separate class of property in subsection A and (ii) assessed for tangible personal property taxes by a county, city, or town receiving a payment from the Commonwealth under Chapter 35.1 (§ 58.1-3523 et seq.) for providing tangible personal property tax relief, the county, city, or town may levy the tangible personal property tax on such qualifying vehicle at a rate not to exceed the rates of tax and rates of assessment required under such chapter.

2. That whenever any of the conditions, requirements, provisions, or contents of any section of Chapters 19, 19.1, and 19.2 (§ 46.2-1900 through 46.2-1993.82) of Title 46.2 of the Code of Virginia are transferred in the same or modified form to a new section or chapter of Title 46.2 or any other title of the Code of Virginia, all references to any such former section of Chapters 19, 19.1,

and 19.2 of Title 46.2 of the Code of Virginia or any other title of the Code of Virginia shall be construed to apply to the new or renumbered section, article, or chapter containing such conditions, requirements, provisions, contents, or portions thereof.

3. That the regulations of any department or agency affected by the repeal of Chapters 19, 19.1, and 19.2 (§ 46.2-1900 through 46.2-1993.82) of Title 46.2 of the Code of Virginia in effect on the effective date of this act shall continue in effect to the extent that they are not in conflict with this act and shall be deemed to be regulations adopted under this act.

4. That the provisions of § 30-152 of the Code of Virginia shall apply to this act so as to give effect to other laws enacted by the 2015 Session of the General Assembly amending Chapters 19, 19.1, and 19.2 (§ 46.2-1900 through 46.2-1993.82) of Title 46.2 of the Code of Virginia.

5. That the repeal of Chapters 19, 19.1, and 19.2 (§ 46.2-1900 through 46.2-1993.82) of Title 46.2 of the Code of Virginia effective as of July 1, 2015, shall not affect any act or offense done or committed, or any penalty incurred, or any right established, accrued, or accruing on or before such date, or any proceeding, prosecution, suit, or action pending on that date. Except as otherwise provided in this act, the repeal of Chapters 19, 19.1, and 19.2 of Title 46.2 of the Code of Virginia shall apply to offenses committed prior to July 1, 2015, and prosecution for such offenses shall be governed by the prior law, which is continued in effect for that purpose. For the purpose of this enactment, an offense was committed prior to July 1, 2015, if any of the essential elements of the offense occurred prior thereto.

6. That any notice given, recognizance taken, or process or writ issued before July 1, 2015, shall be valid although given, taken, or to be returned to a day after such date, in like manner as if Chapters 19, 19.1, and 19.2 (§ 46.2-1900 through 46.2-1993.82) of Title 46.2 of the Code of Virginia had been effective before the same was given, taken, or issued.

7. That the repeal of Chapters 19, 19.1, and 19.2 (§ 46.2-1900 through 46.2-1993.82) of Title 46.2 of the Code of Virginia shall not affect the validity, enforceability, or legality of any loan agreement or other contract, or any right established or accrued under such loan agreement or contract, that existed prior to such repeal.

8. That the repeal of Chapters 19, 19.1, and 19.2 (§ 46.2-1900 through 46.2-1993.82) of Title 46.2 of the Code of Virginia shall not affect the validity, enforceability, or legality of any bond or other debt obligation authorized, issued, or outstanding prior to such repeal.

9. That Chapters 19, 19.1, and 19.2 (§§ 46.2-1900 through 46.2-1993.82) of Title 46.2 of the Code of Virginia are repealed.

10. That the provisions of this act shall not affect the existing terms of persons currently serving as members of any agency, board, authority, commission, or other entity and that appointees currently holding positions shall maintain their terms of appointment and continue to serve until such time as the existing terms might expire or become renewed. However, any new appointments made on or after July 1, 2015, shall be made in accordance with the provisions of this act.