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## HOUSE BILL NO. 372

Offered January 20, 1994

*A BILL to amend and reenact § 46.2-1573 of the Code of Virginia, relating to motor vehicle dealers.*

Patrons—Hall, Abbitt, Dickinson, Giesen and Harris; Senators: Houck, Quayle, Trumbo and Waddell

Referred to Committee on Roads and Internal Navigation

**Be it enacted by the General Assembly of Virginia:****1. That § 46.2-1573 of the Code of Virginia is amended and reenacted as follows:**

§ 46.2-1573. Hearings and other remedies.

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 Chapter 1.1:1 (§ 9-6.14:1 et seq.) of Title 9.

Hearings before the Commissioner under this article shall commence within ninety days of the request for a hearing and the Commissioner's decision shall be rendered within sixty days from the conclusion of the hearing.

B. 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 by the Motor Vehicle Dealers' Advisory Board or any other person indicating a possible violation of any provision of this article. Before rendering any hearing decision under this article, the Commissioner shall request recommendations on the subject from those six members of the Motor Vehicle Dealers' Advisory Board who were selected by the Commissioner in accordance with § 46.2-1502 to attend the hearing, and these recommendations shall be provided within fifteen days after the Commissioner's request for recommendations.

C. For purposes of any matter brought to the Commissioner under subdivisions 3, 4, 5, and 6 and 7a of § 46.2-1569 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 motor vehicle warranties;
6. The dealer's performance under the terms of its franchise;
7. Other economic and geographical factors reasonably associated with the proposed action; and
8. The recommendations, if any, from those six members of the Motor Vehicle Dealers' Advisory Board who were selected by the Commissioner in accordance with § 46.2-1502 to attend the hearing.

*With respect to subdivision 6 of this subsection, 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.*

INTRODUCED

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