

1995 RECONVENED SESSION

ENROLLED

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact § 46.2-1530 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 46.2-1529.1, relating to sales of used motor vehicles by dealers; motor vehicle buyer's orders; penalty.

[H 2185]

Approved

Be it enacted by the General Assembly of Virginia:

1. That § 46.2-1530 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 46.2-1529.1 as follows:

§ 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 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 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.

§ 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 four 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 of this subsection.

8. The amount of any sales and use tax, title fee, uninsured motor vehicle fee, registration 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.

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

ENROLLED

HB2185ER

57 any.

58 12. For sales involving dealer-arranged financing, the following notice, printed in bold type no less
59 than ten-point: "THIS SALE IS CONDITIONED UPON APPROVAL OF YOUR PROPOSED RETAIL
60 INSTALLMENT SALE CONTRACT AS SUBMITTED TO OR THROUGH THE DEALER. IF THAT
61 PROPOSED RETAIL INSTALLMENT SALE CONTRACT IS NOT APPROVED UNDER THE
62 TERMS AGREED TO WITH THE DEALER, YOU MAY CANCEL THIS SALE AND ANY DOWN
63 PAYMENT AND/OR TRADE-IN YOU SUBMITTED WILL BE RETURNED TO YOU, PROVIDED
64 THAT ANY VEHICLE DELIVERED TO YOU BY THE DEALER PURSUANT TO THIS
65 AGREEMENT IS RETURNED TO THE DEALER IN THE SAME CONDITION AS DELIVERED TO
66 YOU, NORMAL WEAR AND TEAR EXCEPTED, WITHIN TWENTY-FOUR HOURS OF WRITTEN
67 OR ORAL NOTICE TO YOU OF THE CREDIT DENIAL."

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

69 If the transaction does not include a policy of motor vehicle liability insurance, the seller shall stamp
70 or mark on the face of the bill of sale in boldface letters no smaller than eighteen point type the
71 following words: "No Liability Insurance Included."

72 A completed buyer's order when signed by both buyer and seller may constitute a bill of sale.

73 B. The Commissioner shall approve a buyer's order form and each dealer shall file with each license
74 application, or renewal, its buyer's order form, on which the processing fee amount is stated.

75 C. If a processing fee is charged, that fact and the amount of the processing fee shall be disclosed by
76 the dealer. Disclosure shall be by placing a clear and conspicuous sign in the public sales area of the
77 dealership. The sign shall be no smaller than eight and one-half inches by eleven inches and the print
78 shall be no smaller than one-half inch, and in a form as approved by the Commissioner.