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HOUSE BILL NO. 2516

Offered January 21, 1999

A BILL to amend and reenact §§ 46.2-1575, 46.2-1576, 46.2-1985, 46.2-1986, 46.2-1992.79, 46.2-1992.80, 46.2-1993.76, and 46.2-1993.77 of the Code of Virginia, relating to motor vehicle dealers, T&M vehicle dealers, trailer dealers, and motorcycle dealers; failure or refusal to pay civil penalties.

Patrons—Wardrup, Albo, Blevins, Davis, Drake, Jones, J.C., Katzen, Landes, May and Weatherholtz;
Senators: Schrock, Stolle and Watkins

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-1575, 46.2-1576, 46.2-1985, 46.2-1986, 46.2-1992.79, 46.2-1992.80, 46.2-1993.76, and 46.2-1993.77 of the Code of Virginia are amended and reenacted as follows:

§ 46.2-1575. Grounds for denying, suspending, or revoking licenses or certificates of dealer registration or qualification.

A license or certificate of dealer registration or qualification issued under this subtitle may be denied, suspended, or revoked on any one or more of the following grounds:

1. Material misstatement or omission in application for license, dealer's license plates, certificate of dealer registration, certificate of qualification, or certificate of title;

2. Failure to comply subsequent to receipt of a written warning from the Department or the Board or any willful failure to comply with any provision of this chapter or any regulation promulgated by the Commissioner or the Board under this chapter;

3. Failure to have an established place of business as defined in § 46.2-1510 or failure to have as the dealer-operator an individual who holds a valid certificate of qualification;

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

5. Employment of fraudulent devices, methods or practices in connection with compliance with the requirements under the statutes of the Commonwealth with respect to the retaking of vehicles under retail installment contracts and the redemption and resale of those vehicles;

6. Having used deceptive acts or practices;

7. Knowingly advertising by any means any assertion, representation, or statement of fact which is untrue, misleading, or deceptive in any particular relating to the conduct of the business licensed or registered or for which a license or registration is sought;

8. Having been convicted of any fraudulent act in connection with the business of selling vehicles or any consumer-related fraud;

9. Having been convicted of any criminal act involving the business of selling vehicles;

10. Willfully retaining in his possession title to a motor vehicle that has not been completely and legally assigned to him;

11. Failure to comply with any provision of Chapter 4.1 (§ 36-85.2 et seq.) of Title 36 or any regulation promulgated pursuant to that chapter;

12. Leasing, renting, lending, or otherwise allowing the use of a dealer's license plate by persons not specifically authorized under this title;

13. Having been convicted of a felony;

14. Failure to submit to the Department, within thirty days from the date of sale, any application, tax, or fee collected for the Department on behalf of a buyer;

15. Having been convicted of larceny of a vehicle or receipt or sale of a stolen vehicle;

16. Having been convicted of odometer tampering or any related violation;

17. If a salvage dealer, salvage pool, or rebuilder, failing to comply with any provision of Chapter 16 (§ 46.2-1600 et seq.) of this title or any regulation promulgated by the Commissioner under that chapter;

or
18. Failing to maintain automobile liability insurance, issued by a company licensed to do business in the Commonwealth, or a certificate of self-insurance as defined in § 46.2-368, with respect to each dealer's license plate issued to the dealer by the Department; or

19. *Failing or refusing to pay civil penalties imposed by the Board pursuant to § 46.2-1507.*

§ 46.2-1576. Suspension, revocation, and refusal to renew licenses or certificates of dealer registration or qualification; notice and hearing.

A. Except as provided in § 46.2-1527.7 and ~~subsection~~ subsections B and C of this section, no

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60 license or certificate of dealer registration or qualification issued under this subtitle shall be suspended
61 or revoked, or renewal thereof refused, until a written copy of the complaint made has been furnished to
62 the licensee, registrant, or qualifier against whom the same is directed and a public hearing thereon has
63 been had before a hearing officer designated by the Board. At least ten days' written notice of the time
64 and place of the hearing shall be given to the licensee, registrant, or qualifier by registered mail
65 addressed to his last known post-office address or as shown on his license or certificate or other record
66 of information in possession of the Board. At the hearing the licensee, registrant, or qualifier shall have
67 the right to be heard personally or by counsel. The hearing officer shall provide recommendations to the
68 Board within ninety days of the conclusion of the hearing. After receiving the recommendations from
69 the hearing officer, the Board may suspend, revoke, or refuse to renew the license or certificate in
70 question. A Board member shall disqualify himself and withdraw from any case in which he cannot
71 accord fair and impartial consideration. Any party may request the disqualification of any Board member
72 by stating with particularity the grounds upon which it is claimed that fair and impartial consideration
73 cannot be accorded. The remaining members of the Board shall determine whether the individual should
74 be disqualified. Immediate notice of any suspension, revocation, or refusal shall be given to the licensee,
75 registrant, or qualifier in the manner provided in this section in the case of notices of hearing.

76 B. Should a dealer fail to maintain an established place of business, the Board may cancel the license
77 of the dealer without a hearing after notification of the intent to cancel has been sent, by return receipt
78 mail, to the dealer at the dealer's residence and business addresses, and the notices are returned
79 undelivered or the dealer does not respond within twenty days from the date the notices were sent. Any
80 subsequent application for a dealer's license shall be treated as an original application.

81 C. *Should a dealer fail or refuse to pay civil penalties imposed by the Board pursuant to*
82 *§ 46.2-1507, the Board may deny, revoke, or suspend the dealer's license without a hearing after notice*
83 *of imposition of civil penalties has been sent, by certified mail, return receipt requested, to the dealer at*
84 *the dealer's business address and such civil penalty is not paid in full within thirty days after receipt of*
85 *the notice.*

86 § 46.2-1985. Grounds for denying, suspending, or revoking licenses or certificates of dealer
87 registration or qualification.

88 A license or certificate of dealer registration or qualification issued under this subtitle may be denied,
89 suspended, or revoked on any one or more of the following grounds:

90 1. Material misstatement or omission in application for license, dealer's license plates, certificate of
91 dealer registration, certificate of qualification, or certificate of title;

92 2. Failure to comply subsequent to receipt of a written warning from the Department or any willful
93 failure to comply with any provision of this chapter or any applicable provision of this subtitle or any
94 applicable regulation promulgated under this subtitle;

95 3. Failure to have an established place of business as defined in § 46.2-1910 or failure to have as the
96 dealer-operator an individual who holds a valid certificate of qualification;

97 4. Defrauding any retail buyer, to the buyer's damage, or any other person in the conduct of the
98 licensee's or registrant's business;

99 5. Employment of fraudulent devices, methods or practices in connection with compliance with the
100 requirements under the statutes of the Commonwealth with respect to the retaking of vehicles under
101 retail installment contracts and the redemption and resale of those vehicles;

102 6. Having used deceptive acts or practices;

103 7. Knowingly advertising by any means any assertion, representation, or statement of fact which is
104 untrue, misleading, or deceptive in any particular relating to the conduct of the business licensed or
105 registered under this subtitle or for which a license or registration is sought;

106 8. Having been convicted of any fraudulent act in connection with the business of selling vehicles or
107 any consumer-related fraud;

108 9. Having been convicted of any criminal act involving the business of selling vehicles;

109 10. Willfully retaining in his possession title to a vehicle that has not been completely and legally
110 assigned to him;

111 11. Failure to comply with any provision of Chapter 4.1 (§ 36-85.2 et seq.) of Title 36 or any
112 regulation promulgated pursuant to that chapter;

113 12. Leasing, renting, lending, or otherwise allowing the use of a dealer's license plate by persons not
114 specifically authorized under this title;

115 13. Having been convicted of a felony;

116 14. Failure to submit to the Department, within thirty days from the date of sale, any application,
117 tax, or fee collected for the Department on behalf of a buyer;

118 15. Having been convicted of larceny of a vehicle or receipt or sale of a stolen vehicle;

119 16. Having been convicted of odometer tampering or any related violation;

120 17. If a salvage dealer, salvage pool, or rebuilder, failing to comply with any provision of Chapter 16
121 of this title or any regulation promulgated by the Commissioner under that chapter; ø

18. Failing to maintain liability insurance, issued by a company licensed to do business in the Commonwealth, or a certificate of self-insurance as defined in § 46.2-368, with respect to each dealer's license plate issued to the dealer by the Department; or

19. *Failing or refusing to pay civil penalties imposed by the Commissioner pursuant to § 46.2-1907.* § 46.2-1986. Suspension, revocation, and refusal to renew licenses or certificates of dealer registration or qualification; notice and hearing.

A. Except as provided in ~~subsection~~ *subsections B and C* of this section, no license or certificate of dealer registration or qualification issued under this subtitle shall be suspended or revoked, or renewal thereof refused, until a written copy of the complaint made has been furnished to the licensee, registrant, or qualifier against whom the same is directed and a public hearing thereon has been had before the Commissioner. At least ten days' written notice of the time and place of the hearing shall be given to the licensee, registrant, or qualifier by registered mail addressed to his last known post-office address or as shown on his license or certificate or other record of information in possession of the Commissioner. At the hearing the licensee, registrant, or qualifier shall have the right to be heard personally or by counsel. After hearing, the Commissioner may suspend, revoke, or refuse to renew the license or certificate in question. Immediate notice of any suspension, revocation, or refusal shall be given to the licensee, registrant, or qualifier in the same manner provided in this section for giving notices of hearing.

B. Should a dealer fail to maintain an established place of business, the Commissioner may cancel the license of the dealer without a hearing after notification of the intent to cancel has been sent, by return receipt mail, to the dealer at the dealer's residence and business addresses, and the notices are returned undelivered or the dealer does not respond within twenty days from the date the notices were sent. Any subsequent application for a dealer's license shall be treated as an original application.

C. *Should a dealer fail or refuse to pay civil penalties imposed by the Commissioner pursuant to § 46.2-1907, the Commissioner may deny, revoke, or suspend the dealer's license without a hearing after notice of imposition of civil penalties has been sent, by certified mail, return receipt requested, to the dealer at the dealer's business address and such civil penalty is not paid in full within thirty days after receipt of the notice.*

§ 46.2-1992.79. Grounds for denying, suspending, or revoking licenses or certificates of dealer registration or qualification.

A license or certificate of dealer registration or qualification issued under this subtitle may be denied, suspended, or revoked on any one or more of the following grounds:

1. Material misstatement or omission in application for license, dealer's license plates, certificate of dealer registration, certificate of qualification, or certificate of title;

2. Failure to comply subsequent to receipt of a written warning from the Department or any willful failure to comply with any provision of this chapter or any applicable provision of this subtitle or any applicable regulation promulgated under this subtitle;

3. Failure to have an established place of business as defined in § 46.2-1992.8 or failure to have as the dealer-operator an individual who holds a valid certificate of qualification;

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

5. Employment of fraudulent devices, methods or practices in connection with compliance with the requirements under the statutes of the Commonwealth with respect to the retaking of vehicles under retail installment contracts and the redemption and resale of those vehicles;

6. Having used deceptive acts or practices;

7. Knowingly advertising by any means any assertion, representation, or statement of fact which is untrue, misleading, or deceptive in any particular relating to the conduct of the business licensed or registered under this subtitle or for which a license or registration is sought;

8. Having been convicted of any fraudulent act in connection with the business of selling vehicles or any consumer-related fraud;

9. Having been convicted of any criminal act involving the business of selling vehicles;

10. Willfully retaining in his possession title to a vehicle that has not been completely and legally assigned to him;

11. Failure to comply with any provision of Chapter 4.1 (§ 36-85.2 et seq.) of Title 36 or any regulation promulgated pursuant to that chapter;

12. Leasing, renting, lending, or otherwise allowing the use of a dealer's license plate by persons not specifically authorized under this title;

13. Having been convicted of a felony;

14. Failure to submit to the Department, within thirty days from the date of sale, any application, tax, or fee collected for the Department on behalf of a buyer;

15. Having been convicted of larceny of a vehicle or receipt or sale of a stolen vehicle;

16. Having been convicted of odometer tampering or any related violation;
17. If a salvage dealer, salvage pool, or rebuilder, failing to comply with any provision of Chapter 16 of this title or any regulation promulgated by the Commissioner under that chapter; ~~or~~
18. Failing to maintain liability insurance, issued by a company licensed to do business in the Commonwealth, or a certificate of self-insurance as defined in § 46.2-368, with respect to each dealer's license plate issued to the dealer by the Department; *or*
19. *Failing or refusing to pay civil penalties imposed by the Commissioner pursuant to § 46.2-1992.5.*
- § 46.2-1992.80. Suspension, revocation, and refusal to renew licenses or certificates of dealer registration or qualification; notice and hearing.
- A. Except as provided in ~~subsection~~ *subsections B and C* of this section, no license or certificate of dealer registration or qualification issued under this subtitle shall be suspended or revoked, or renewal thereof refused, until a written copy of the complaint made has been furnished to the licensee, registrant, or qualifier against whom the same is directed and a public hearing thereon has been had before the Commissioner. At least ten days' written notice of the time and place of the hearing shall be given to the licensee, registrant, or qualifier by registered mail addressed to his last known post office address or as shown on his license or certificate or other record of information in possession of the Commissioner. At the hearing the licensee, registrant, or qualifier shall have the right to be heard personally or by counsel. After hearing, the Commissioner may suspend, revoke, or refuse to renew the license or certificate in question. Immediate notice of any suspension, revocation, or refusal shall be given to the licensee, registrant, or qualifier in the same manner provided in this section for giving notices of hearing.
- B. Should a dealer fail to maintain an established place of business, the Commissioner may cancel the license of the dealer without a hearing after notification of the intent to cancel has been sent, by return receipt mail, to the dealer at the dealer's residence and business addresses, and the notices are returned undelivered or the dealer does not respond within twenty days from the date the notices were sent. Any subsequent application for a dealer's license shall be treated as an original application.
- C. *Should a dealer fail or refuse to pay civil penalties imposed by the Commissioner pursuant to § 46.2-1992.5, the Commissioner may deny, revoke, or suspend the dealer's license without a hearing after notice of imposition of civil penalties has been sent, by certified mail, return receipt requested, to the dealer at the dealer's business address and such civil penalty is not paid in full within thirty days after receipt of the notice.*
- § 46.2-1993.76. Grounds for denying, suspending, or revoking licenses or certificates of dealer registration or qualification.
- A license or certificate of dealer registration or qualification issued under this subtitle may be denied, suspended, or revoked on any one or more of the following grounds:
1. Material misstatement or omission in application for license, dealer's license plates, certificate of dealer registration, certificate of qualification, or certificate of title;
 2. Failure to comply subsequent to receipt of a written warning from the Department or any willful failure to comply with any provision of this chapter or any applicable provision of this subtitle or any applicable regulation promulgated under this subtitle;
 3. Failure to have an established place of business as defined in § 46.2-1993.8 or failure to have as the dealer-operator an individual who holds a valid certificate of qualification;
 4. Defrauding any retail buyer, to the buyer's damage, or any other person in the conduct of the licensee's or registrant's business;
 5. Employment of fraudulent devices, methods or practices in connection with compliance with the requirements under the statutes of the Commonwealth with respect to the retaking of vehicles under retail installment contracts and the redemption and resale of those vehicles;
 6. Having used deceptive acts or practices;
 7. Knowingly advertising by any means any assertion, representation, or statement of fact which is untrue, misleading, or deceptive in any particular relating to the conduct of the business licensed or registered under this subtitle or for which a license or registration is sought;
 8. Having been convicted of any fraudulent act in connection with the business of selling vehicles or any consumer-related fraud;
 9. Having been convicted of any criminal act involving the business of selling vehicles;
 10. Willfully retaining in his possession title to a vehicle that has not been completely and legally assigned to him;
 11. Failure to comply with any provision of Chapter 4.1 (§ 36-85.2 et seq.) of Title 36 or any regulation promulgated pursuant to that chapter;
 12. Leasing, renting, lending, or otherwise allowing the use of a dealer's license plate by persons not specifically authorized under this title;
 13. Having been convicted of a felony;

245 14. Failure to submit to the Department, within thirty days from the date of sale, any application,
 246 tax, or fee collected for the Department on behalf of a buyer;

247 15. Having been convicted of larceny of a vehicle or receipt or sale of a stolen vehicle;

248 16. Having been convicted of odometer tampering or any related violation;

249 17. If a salvage dealer, salvage pool, or rebuilder, failing to comply with any provision of Chapter 16
 250 of this title or any regulation promulgated by the Commissioner under that chapter; or

251 18. Failing to maintain liability insurance, issued by a company licensed to do business in the
 252 Commonwealth, or a certificate of self-insurance as defined in § 46.2-368, with respect to each dealer's
 253 license plate issued to the dealer by the Department; or

254 19. *Failing or refusing to pay civil penalties imposed by the Commissioner pursuant to*
 255 *§ 46.2-1993.5.*

256 § 46.2-1993.77. Suspension, revocation, and refusal to renew licenses or certificates of dealer
 257 registration or qualification; notice and hearing.

258 A. Except as provided in ~~subsection~~ *subsections B and C* of this section, no license or certificate of
 259 dealer registration or qualification issued under this subtitle shall be suspended or revoked, or renewal
 260 thereof refused, until a written copy of the complaint made has been furnished to the licensee, registrant,
 261 or qualifier against whom the same is directed and a public hearing thereon has been had before the
 262 Commissioner. At least ten days' written notice of the time and place of the hearing shall be given to
 263 the licensee, registrant, or qualifier by registered mail addressed to his last known post-office address or
 264 as shown on his license or certificate or other record of information in possession of the Commissioner.
 265 At the hearing the licensee, registrant, or qualifier shall have the right to be heard personally or by
 266 counsel. After hearing, the Commissioner may suspend, revoke, or refuse to renew the license or
 267 certificate in question. Immediate notice of any suspension, revocation, or refusal shall be given to the
 268 licensee, registrant, or qualifier in the same manner provided in this section for giving notices of
 269 hearing.

270 B. Should a dealer fail to maintain an established place of business, the Commissioner may cancel
 271 the license of the dealer without a hearing after notification of the intent to cancel has been sent, by
 272 return receipt mail, to the dealer at the dealer's residence and business addresses, and the notices are
 273 returned undelivered or the dealer does not respond within twenty days from the date the notices were
 274 sent. Any subsequent application for a dealer's license shall be treated as an original application.

275 C. *Should a dealer fail or refuse to pay civil penalties imposed by the Commissioner pursuant to*
 276 *§ 46.2-1993.5, the Commissioner may deny, revoke, or suspend the dealer's license without a hearing*
 277 *after notice of imposition of civil penalties has been sent, by certified mail, return receipt requested, to*
 278 *the dealer at the dealer's business address and such civil penalty is not paid in full within thirty days*
 279 *after receipt of the notice.*