# **1999 SESSION**

**ENROLLED** 

[H 2516]

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## VIRGINIA ACTS OF ASSEMBLY - CHAPTER

An Act 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 2 3 4 dealers, T&M vehicle dealers, trailer dealers, and motorcycle dealers; failure or refusal to pay civil 5 penalties.

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## Approved

#### 8 Be it enacted by the General Assembly of Virginia:

9 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 10 46.2-1993.77 of the Code of Virginia are amended and reenacted as follows:

11 § 46.2-1575. Grounds for denying, suspending, or revoking licenses or certificates of dealer 12 registration or qualification.

A license or certificate of dealer registration or qualification issued under this subtitle may be denied, 13 14 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 15 dealer registration, certificate of qualification, or certificate of title; 16

2. Failure to comply subsequent to receipt of a written warning from the Department or the Board or 17 18 any willful failure to comply with any provision of this chapter or any regulation promulgated by the Commissioner or the Board under this chapter; 19

20 3. Failure to have an established place of business as defined in § 46.2-1510 or failure to have as the 21 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 22 23 licensee's or registrant's business;

24 5. Employment of fraudulent devices, methods or practices in connection with compliance with the 25 requirements under the statutes of the Commonwealth with respect to the retaking of vehicles under 26 retail installment contracts and the redemption and resale of those vehicles; 27

6. Having used deceptive acts or practices;

28 7. Knowingly advertising by any means any assertion, representation, or statement of fact which is 29 untrue, misleading, or deceptive in any particular relating to the conduct of the business licensed or 30 registered or for which a license or registration is sought;

31 8. Having been convicted of any fraudulent act in connection with the business of selling vehicles or 32 any consumer-related fraud;

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

34 10. Willfully retaining in his possession title to a motor vehicle that has not been completely and 35 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 36 37 regulation promulgated pursuant to that chapter;

38 12. Leasing, renting, lending, or otherwise allowing the use of a dealer's license plate by persons not 39 specifically authorized under this title; 40

13. Having been convicted of a felony;

41 14. Failure to submit to the Department, within thirty days from the date of sale, any application, 42 tax, or fee collected for the Department on behalf of a buyer;

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

44 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 45 (§ 46.2-1600 et seq.) of this title or any regulation promulgated by the Commissioner under that chapter; 46 47 or

48 18. Failing to maintain automobile liability insurance, issued by a company licensed to do business in 49 the Commonwealth, or a certificate of self-insurance as defined in § 46.2-368, with respect to each 50 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. 51

52 § 46.2-1576. Suspension, revocation, and refusal to renew licenses or certificates of dealer registration 53 or qualification; notice and hearing.

54 A. Except as provided in § 46.2-1527.7 and subsection subsections B and C of this section, no 55 license or certificate of dealer registration or qualification issued under this subtitle shall be suspended 56 or revoked, or renewal thereof refused, until a written copy of the complaint made has been furnished to HB2516ER

the licensee, registrant, or qualifier against whom the same is directed and a public hearing thereon has 57 58 been had before a hearing officer designated by the Board. At least ten days' written notice of the time 59 and place of the hearing shall be given to the licensee, registrant, or qualifier by registered mail 60 addressed to his last known post office address or as shown on his license or certificate or other record 61 of information in possession of the Board. At the hearing the licensee, registrant, or qualifier shall have 62 the right to be heard personally or by counsel. The hearing officer shall provide recommendations to the Board within ninety days of the conclusion of the hearing. After receiving the recommendations from 63 64 the hearing officer, the Board may suspend, revoke, or refuse to renew the license or certificate in question. A Board member shall disqualify himself and withdraw from any case in which he cannot 65 66 accord fair and impartial consideration. Any party may request the disqualification of any Board member 67 by stating with particularity the grounds upon which it is claimed that fair and impartial consideration cannot be accorded. The remaining members of the Board shall determine whether the individual should 68 69 be disqualified. Immediate notice of any suspension, revocation, or refusal shall be given to the licensee, registrant, or qualifier in the manner provided in this section in the case of notices of hearing. 70

B. Should a dealer fail to maintain an established place of business, the Board may cancel the license 71 72 of the dealer without a hearing after notification of the intent to cancel has been sent, by return receipt 73 mail, to the dealer at the dealer's residence and business addresses, and the notices are returned 74 undelivered or the dealer does not respond within twenty days from the date the notices were sent. Any 75 subsequent application for a dealer's license shall be treated as an original application.

76 C. Should a dealer fail or refuse to pay civil penalties imposed by the Board pursuant to § 46.2-1507, the Board may deny, revoke, or suspend the dealer's license without a hearing after notice 77 of imposition of civil penalties has been sent, by certified mail, return receipt requested, to the dealer at 78 79 the dealer's business address and such civil penalty is not paid in full within thirty days after receipt of 80 the notice.

§ 46.2-1985. Grounds for denying, suspending, or revoking licenses or certificates of dealer 81 82 registration or qualification.

83 A license or certificate of dealer registration or qualification issued under this subtitle may be denied, 84 suspended, or revoked on any one or more of the following grounds:

85 1. Material misstatement or omission in application for license, dealer's license plates, certificate of dealer registration, certificate of qualification, or certificate of title; 86

2. Failure to comply subsequent to receipt of a written warning from the Department or any willful 87 88 failure to comply with any provision of this chapter or any applicable provision of this subtitle or any 89 applicable regulation promulgated under this subtitle;

3. Failure to have an established place of business as defined in § 46.2-1910 or failure to have as the 90 91 dealer-operator an individual who holds a valid certificate of qualification;

92 4. Defrauding any retail buyer, to the buyer's damage, or any other person in the conduct of the 93 licensee's or registrant's business;

94 5. Employment of fraudulent devices, methods or practices in connection with compliance with the 95 requirements under the statutes of the Commonwealth with respect to the retaking of vehicles under 96 retail installment contracts and the redemption and resale of those vehicles; 97

6. Having used deceptive acts or practices;

98 7. Knowingly advertising by any means any assertion, representation, or statement of fact which is 99 untrue, misleading, or deceptive in any particular relating to the conduct of the business licensed or 100 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 101 any consumer-related fraud: 102

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

104 10. Willfully retaining in his possession title to a vehicle that has not been completely and legally 105 assigned to him;

11. Failure to comply with any provision of Chapter 4.1 (§ 36-85.2 et seq.) of Title 36 or any 106 107 regulation promulgated pursuant to that chapter;

108 12. Leasing, renting, lending, or otherwise allowing the use of a dealer's license plate by persons not 109 specifically authorized under this title;

110 13. Having been convicted of a felony;

14. Failure to submit to the Department, within thirty days from the date of sale, any application, 111 tax, or fee collected for the Department on behalf of a buyer; 112

113 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; 114

115 17. If a salvage dealer, salvage pool, or rebuilder, failing to comply with any provision of Chapter 16 116 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 117

HB2516ER

118 Commonwealth, or a certificate of self-insurance as defined in § 46.2-368, with respect to each dealer's 119 license plate issued to the dealer by the Department; or

120 19. Failing or refusing to pay civil penalties imposed by the Commissioner pursuant to § 46.2-1907.

121 § 46.2-1986. Suspension, revocation, and refusal to renew licenses or certificates of dealer registration 122 or qualification; notice and hearing.

123 A. Except as provided in subsection subsections B and C of this section, no license or certificate of 124 dealer registration or qualification issued under this subtitle shall be suspended or revoked, or renewal 125 thereof refused, until a written copy of the complaint made has been furnished to the licensee, registrant, 126 or qualifier against whom the same is directed and a public hearing thereon has been had before the 127 Commissioner. At least ten days' written notice of the time and place of the hearing shall be given to 128 the licensee, registrant, or qualifier by registered mail addressed to his last known post office address or 129 as shown on his license or certificate or other record of information in possession of the Commissioner. 130 At the hearing the licensee, registrant, or qualifier shall have the right to be heard personally or by 131 counsel. After hearing, the Commissioner may suspend, revoke, or refuse to renew the license or 132 certificate in question. Immediate notice of any suspension, revocation, or refusal shall be given to the 133 licensee, registrant, or qualifier in the same manner provided in this section for giving notices of 134 hearing.

135 B. Should a dealer fail to maintain an established place of business, the Commissioner may cancel 136 the license of the dealer without a hearing after notification of the intent to cancel has been sent, by 137 return receipt mail, to the dealer at the dealer's residence and business addresses, and the notices are 138 returned undelivered or the dealer does not respond within twenty days from the date the notices were 139 sent. Any subsequent application for a dealer's license shall be treated as an original application.

140 C. Should a dealer fail or refuse to pay civil penalties imposed by the Commissioner pursuant to 141 § 46.2-1907, the Commissioner may deny, revoke, or suspend the dealer's license without a hearing after 142 notice of imposition of civil penalties has been sent, by certified mail, return receipt requested, to the 143 dealer at the dealer's business address and such civil penalty is not paid in full within thirty days after 144 receipt of the notice.

145 § 46.2-1992.79. Grounds for denying, suspending, or revoking licenses or certificates of dealer 146 registration or qualification.

147 A license or certificate of dealer registration or qualification issued under this subtitle may be denied, 148 suspended, or revoked on any one or more of the following grounds:

149 1. Material misstatement or omission in application for license, dealer's license plates, certificate of 150 dealer registration, certificate of qualification, or certificate of title;

151 2. Failure to comply subsequent to receipt of a written warning from the Department or any willful 152 failure to comply with any provision of this chapter or any applicable provision of this subtitle or any applicable regulation promulgated under this subtitle; 153

154 3. Failure to have an established place of business as defined in § 46.2-1992.8 or failure to have as 155 the dealer-operator an individual who holds a valid certificate of qualification;

156 4. Defrauding any retail buyer, to the buyer's damage, or any other person in the conduct of the 157 licensee's or registrant's business;

158 5. Employment of fraudulent devices, methods or practices in connection with compliance with the 159 requirements under the statutes of the Commonwealth with respect to the retaking of vehicles under 160 retail installment contracts and the redemption and resale of those vehicles; 161

6. Having used deceptive acts or practices;

162 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 163 164 registered under this subtitle or for which a license or registration is sought;

165 8. Having been convicted of any fraudulent act in connection with the business of selling vehicles or 166 any consumer-related fraud;

9. Having been convicted of any criminal act involving the business of selling vehicles; 167

168 10. Willfully retaining in his possession title to a vehicle that has not been completely and legally 169 assigned to him;

170 11. Failure to comply with any provision of Chapter 4.1 (§ 36-85.2 et seq.) of Title 36 or any 171 regulation promulgated pursuant to that chapter;

172 12. Leasing, renting, lending, or otherwise allowing the use of a dealer's license plate by persons not 173 specifically authorized under this title;

174 13. Having been convicted of a felony:

175 14. Failure to submit to the Department, within thirty days from the date of sale, any application, 176 tax, or fee collected for the Department on behalf of a buyer;

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

178 16. Having been convicted of odometer tampering or any related violation; 179 17. If a salvage dealer, salvage pool, or rebuilder, failing to comply with any provision of Chapter 16 180 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 181 182 Commonwealth, or a certificate of self-insurance as defined in § 46.2-368, with respect to each dealer's 183 license plate issued to the dealer by the Department; or

184 19. Failing or refusing to pay civil penalties imposed by the Commissioner pursuant to § 46.2-1992.5. 185

186 § 46.2-1992.80. Suspension, revocation, and refusal to renew licenses or certificates of dealer 187 registration or qualification; notice and hearing.

188 A. Except as provided in subsection subsections B and C of this section, no license or certificate of 189 dealer registration or qualification issued under this subtitle shall be suspended or revoked, or renewal 190 thereof refused, until a written copy of the complaint made has been furnished to the licensee, registrant, 191 or qualifier against whom the same is directed and a public hearing thereon has been had before the 192 Commissioner. At least ten days' written notice of the time and place of the hearing shall be given to 193 the licensee, registrant, or qualifier by registered mail addressed to his last known post office address or 194 as shown on his license or certificate or other record of information in possession of the Commissioner. 195 At the hearing the licensee, registrant, or qualifier shall have the right to be heard personally or by 196 counsel. After hearing, the Commissioner may suspend, revoke, or refuse to renew the license or 197 certificate in question. Immediate notice of any suspension, revocation, or refusal shall be given to the 198 licensee, registrant, or qualifier in the same manner provided in this section for giving notices of 199 hearing.

200 B. Should a dealer fail to maintain an established place of business, the Commissioner may cancel 201 the license of the dealer without a hearing after notification of the intent to cancel has been sent, by 202 return receipt mail, to the dealer at the dealer's residence and business addresses, and the notices are 203 returned undelivered or the dealer does not respond within twenty days from the date the notices were 204 sent. Any subsequent application for a dealer's license shall be treated as an original application.

205 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 206 207 after notice of imposition of civil penalties has been sent, by certified mail, return receipt requested, to 208 the dealer at the dealer's business address and such civil penalty is not paid in full within thirty days 209 after receipt of the notice.

210 § 46.2-1993.76. Grounds for denying, suspending, or revoking licenses or certificates of dealer 211 registration or qualification.

212 A license or certificate of dealer registration or qualification issued under this subtitle may be denied, 213 suspended, or revoked on any one or more of the following grounds:

214 1. Material misstatement or omission in application for license, dealer's license plates, certificate of 215 dealer registration, certificate of qualification, or certificate of title;

216 2. Failure to comply subsequent to receipt of a written warning from the Department or any willful 217 failure to comply with any provision of this chapter or any applicable provision of this subtitle or any applicable regulation promulgated under this subtitle; 218

219 3. Failure to have an established place of business as defined in § 46.2-1993.8 or failure to have as 220 the dealer-operator an individual who holds a valid certificate of qualification;

221 4. Defrauding any retail buyer, to the buyer's damage, or any other person in the conduct of the 222 licensee's or registrant's business;

223 5. Employment of fraudulent devices, methods or practices in connection with compliance with the 224 requirements under the statutes of the Commonwealth with respect to the retaking of vehicles under 225 retail installment contracts and the redemption and resale of those vehicles; 226

6. Having used deceptive acts or practices;

227 7. Knowingly advertising by any means any assertion, representation, or statement of fact which is 228 untrue, misleading, or deceptive in any particular relating to the conduct of the business licensed or 229 registered under this subtitle or for which a license or registration is sought;

230 8. Having been convicted of any fraudulent act in connection with the business of selling vehicles or 231 any consumer-related fraud; 232

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

233 10. Willfully retaining in his possession title to a vehicle that has not been completely and legally 234 assigned to him;

235 11. Failure to comply with any provision of Chapter 4.1 (§ 36-85.2 et seq.) of Title 36 or any 236 regulation promulgated pursuant to that chapter;

237 12. Leasing, renting, lending, or otherwise allowing the use of a dealer's license plate by persons not 238 specifically authorized under this title;

239 13. Having been convicted of a felony;

HB2516ER

- 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;
- **243** 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 16of 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

- **249** 19. Failing or refusing to pay civil penalties imposed by the Commissioner pursuant to **250** § 46.2-1993.5.
- \$ 46.2-1993.77. Suspension, revocation, and refusal to renew licenses or certificates of dealer
   registration or qualification; notice and hearing.

253 A. Except as provided in subsection subsections B and C of this section, no license or certificate of 254 dealer registration or qualification issued under this subtitle shall be suspended or revoked, or renewal 255 thereof refused, until a written copy of the complaint made has been furnished to the licensee, registrant, 256 or qualifier against whom the same is directed and a public hearing thereon has been had before the 257 Commissioner. At least ten days' written notice of the time and place of the hearing shall be given to 258 the licensee, registrant, or qualifier by registered mail addressed to his last known post office address or 259 as shown on his license or certificate or other record of information in possession of the Commissioner. 260 At the hearing the licensee, registrant, or qualifier shall have the right to be heard personally or by 261 counsel. After hearing, the Commissioner may suspend, revoke, or refuse to renew the license or 262 certificate in question. Immediate notice of any suspension, revocation, or refusal shall be given to the 263 licensee, registrant, or qualifier in the same manner provided in this section for giving notices of 264 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
\$ 46.2-1993.5, 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

**274** after receipt of the notice.