

VIRGINIA ACTS OF ASSEMBLY -- 2013 SESSION

CHAPTER 247

An Act to amend and reenact §§ 46.2-1516, 46.2-1531, 46.2-1916, 46.2-1931, 46.2-1992.14, 46.2-1992.24, 46.2-1993.14, and 46.2-1993.24 of the Code of Virginia, relating to consignment sales of motor vehicles.

[H 1539]

Approved March 13, 2013

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-1516, 46.2-1531, 46.2-1916, 46.2-1931, 46.2-1992.14, 46.2-1992.24, 46.2-1993.14, and 46.2-1993.24 of the Code of Virginia are amended and reenacted as follows:

§ 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, provided that the application is made 15 days prior to the sale. The Board shall not issue a temporary supplemental license for the same jurisdiction for a consecutive seven-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.

§ 46.2-1531. 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.
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. ~~If any or, if the motor vehicle on consignment from a certified nonprofit organization~~ 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, (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.

§ 46.2-1916. Supplemental sales locations.

The Commissioner may issue a license for a licensed T&M vehicle dealer to display for sale or sell T&M 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 T&M vehicle dealer to display for sale or sell vehicles at wholesale auction; placing T&M vehicles for sale at 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, provided that the application is made 15 days prior to the sale. The Department shall not issue a temporary supplemental license for the same jurisdiction for a consecutive seven-day period. The Department shall not issue more than eight supplemental licenses per year to any licensed T&M vehicle dealer. A temporary supplemental license for the sale of new T&M 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.

However, the application for a temporary supplemental license may be made five business days prior to the sale if the applicant submits evidence that the location is in compliance with all applicable local ordinances and that all other requirements of this section have been met. The application shall include affirmative proof of no opposition, in the form of letters signed by 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, approving the Department's granting the temporary supplemental license.

A temporary supplemental license for sale of used T&M vehicles may be issued only for the county, city, or town in which the dealer is licensed pursuant to § 46.2-1910, 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 Department a copy of the notice required under this section and a list of the dealers to whom the notice was distributed.

§ 46.2-1931. Consignment vehicles; contract.

Any T&M vehicle dealer offering a T&M vehicle for sale on consignment shall have in his possession a consignment contract for the T&M 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 T&M vehicle on consignment, including the make, model year, vehicle identification number, and 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 T&M vehicle is sold.
6. Any fees for which the owner is responsible.
7. A disclosure of all unsatisfied liens on the T&M vehicle and the location of the certificate of title to the T&M vehicle.

8. A requirement that the T&M vehicle pass a safety inspection prior to sale. ~~If any or, if the T&M vehicle on consignment from a certified nonprofit organization~~ is found not to be in compliance with

any safety inspection requirement *after having been inspected*, the T&M dealer shall *either take steps to bring it into compliance or* furnish any buyer intending to use that T&M vehicle on the public highways a written disclosure, prior to sale, that the T&M vehicle did not pass a safety inspection.

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

Dealer license plates shall not be used to demonstrate a T&M vehicle on consignment except on (i) T&M vehicles with gross vehicle weight of 15,000 pounds or more, (ii) T&M vehicles on consignment from another licensed T&M vehicle dealer, and (iii) T&M vehicles on consignment from a nonprofit organization certified pursuant to § 46.2-1908.1. 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 other than T&M vehicles shall be sold on consignment by T&M vehicle dealers.

§ 46.2-1992.14. Supplemental sales locations.

The Commissioner may issue a license for a licensed trailer dealer to display for sale or sell trailers 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 trailer dealer to display for sale or sell trailers at wholesale auction; placing trailers for sale at 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 fourteen days, provided that the application is made fifteen days prior to the sale. A temporary supplemental license for the sale of new trailers may be issued only for locations within the dealer's area of responsibility, as defined in his franchise or sales agreement, unless certification 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.

However, the application for a temporary supplemental license may be made five business days prior to the sale, provided the applicant submit evidence that the location is in compliance with all local ordinances and that all other requirements of this section have been met. The application shall include affirmative proof of nonopposition in the form of letters signed by 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, approving the Department's granting of the temporary supplemental license.

A temporary supplemental license for sale of used trailers may be issued only for the county, city, or town in which the dealer is licensed pursuant to § 46.2-1992.8, 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, at least thirty 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.

§ 46.2-1992.24. Consignment trailers; contract.

Any trailer dealer offering a trailer for sale on consignment shall have in his possession a consignment contract for the trailer, 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 trailer on consignment, including the make and model year.
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 trailer is sold.
6. Any fees for which the owner is responsible.
7. A disclosure of all unsatisfied liens on the trailer and the location of the certificate of title to the trailer.
8. A requirement that the trailer pass a safety inspection prior to sale, if periodic safety inspections of the trailer are required under Article 21 (§ 46.2-1157) of Chapter 10 ~~of this title~~. ~~If any or, if the trailer on consignment from a certified nonprofit organization~~ is found not to be in compliance with any safety inspection requirement *after having been inspected*, the ~~trailer~~ dealer shall *either take steps to bring it into compliance or* furnish any buyer intending to use that trailer on the public highways a written disclosure, prior to sale, that the trailer did not pass a safety inspection.

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

Dealer license plates shall not be used to demonstrate a trailer on consignment except on (i) trailers with gross vehicle weight of 15,000 pounds or more, (ii) trailers on consignment from another licensed trailer dealer, and (iii) trailers on consignment from nonprofit organizations certified pursuant to § 46.2-1992.6:1. 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.

§ 46.2-1993.14. Supplemental sales locations.

The Commissioner may issue a license for a licensed motorcycle dealer to display for sale or sell motorcycles 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 motorcycle dealer to display for sale or sell motorcycles at wholesale auction; placing motorcycles for sale at 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 14 days, provided that the application is made 15 days prior to the sale. The Department shall not issue a temporary supplemental license for the same jurisdiction for a consecutive 14-day period. The Department shall not issue more than eight supplemental licenses per year to any licensed motorcycle dealer.

A temporary supplemental license for the sale of new motorcycles may be issued only for locations within the dealer's area of responsibility, as defined in his franchise or sales agreement, unless certification 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.

However, the application for a temporary supplemental license may be made five business days prior to the sale, provided the applicant submit evidence that the location is in compliance with all local ordinances and that all other requirements of this section have been met. The application shall include affirmative proof of nonopposition in the form of letters signed by 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, approving the Department's granting the temporary supplemental license.

A temporary supplemental license for sale of used motorcycles may be issued only for the county, city, or town in which the dealer is licensed pursuant to § 46.2-1993.8, 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 Department a copy of the notice required under this section and a list of the dealers to whom the notice was distributed.

§ 46.2-1993.24. Consignment motorcycles; contract.

Any motorcycle dealer offering a motorcycle for sale on consignment shall have in his possession a consignment contract for the motorcycle, 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 motorcycle on consignment, including the make, model year, vehicle identification number, and 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 motorcycle is sold.
6. Any fees for which the owner is responsible.
7. A disclosure of all unsatisfied liens on the motorcycle and the location of the certificate of title to the motorcycle.
8. A requirement that the motorcycle pass a safety inspection prior to sale. ~~If any or, if the motorcycle on consignment from a certified nonprofit organization is found not to be in compliance with any safety inspection requirement after having been inspected, the motorcycle dealer shall either take steps to bring it into compliance or furnish any buyer intending to use that motorcycle on the public highways a written disclosure, prior to sale, that the motorcycle did not pass a safety inspection.~~

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

Dealer license plates shall not be used to demonstrate a motorcycle on consignment except (i) motorcycles on consignment from another licensed motorcycle dealer and (ii) motorcycles on

consignment from nonprofit organizations certified pursuant to § 46.2-1993.6:1. 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 other than motorcycles shall be sold on consignment by motorcycle dealers.