

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact §§ 46.2-1500 and 63.1-133.46 of the Code of Virginia and to amend the*
 3 *Code of Virginia by adding in Article 1 of Chapter 7 of Title 11 a section numbered 11-40.4,*
 4 *relating to the Virginia Public Procurement Act; the sale, purchase, and transfer of surplus motor*
 5 *vehicles and other surplus state property; motor vehicle dealers; and Temporary Assistance to Needy*
 6 *Families (TANF).*

7 [H 1917]

8 Approved

9 **Be it enacted by the General Assembly of Virginia:**

10 **1. That §§ 46.2-1500 and 63.1-133.46 of the Code of Virginia are amended and reenacted and that**
 11 **the Code of Virginia is amended by adding in Article 1 of Chapter 7 of Title 11 a section**
 12 **numbered 11-40.4 as follows:**

13 *§ 11-40.4. Exception for acquisition of certain motor vehicles by State Department of Social Services*
 14 *or local departments of social services.*

15 *The provisions of this chapter shall not apply to the acquisition of motor vehicles by the State*
 16 *Department of Social Services or local departments of social services for sale or transfer to Temporary*
 17 *Assistance to Needy Families (TANF) recipients.*

18 **§ 46.2-1500. Definitions.**

19 Unless the context otherwise requires, the following words and terms for the purpose of this chapter
 20 shall have the following meanings:

21 "Board" means the Motor Vehicle Dealer Board.

22 "Certificate of origin" means the document provided by the manufacturer of a new motor vehicle, or
 23 its distributor, which is the only valid indication of ownership between the manufacturer, its distributor,
 24 its franchised motor vehicle dealers, and the original purchaser not for resale.

25 "Dealer-operator" means the individual who works at the established place of business of a dealer
 26 and who is responsible for and in charge of day-to-day operations of that place of business.

27 "Distributor" means a person who is licensed by the Department of Motor Vehicles under Chapter 19
 28 (§ 46.2-1900 et seq.) of this title and who sells or distributes new motor vehicles pursuant to a written
 29 agreement with the manufacturer, to franchised motor vehicle dealers in the Commonwealth.

30 "Distributor branch" means a branch office licensed by the Department of Motor Vehicles under
 31 Chapter 19 (§ 46.2-1900 et seq.) of this title and maintained by a distributor for the sale of motor
 32 vehicles to motor vehicle dealers or for directing or supervising, in whole or in part, its representatives
 33 in the Commonwealth.

34 "Distributor representative" means a person who is licensed by the Department of Motor Vehicles
 35 under Chapter 19 (§ 46.2-1900 et seq.) of this title and employed by a distributor or by a distributor
 36 branch, for the purpose of making or promoting the sale of motor vehicles or for supervising or
 37 contacting its dealers, prospective dealers, or representatives in the Commonwealth.

38 "Factory branch" means a branch office maintained by a person for the sale of motor vehicles to
 39 distributors or for the sale of motor vehicles to motor vehicle dealers, or for directing or supervising, in
 40 whole or in part, its representatives in the Commonwealth.

41 "Factory representative" means a person who is licensed by the Department of Motor Vehicles under
 42 Chapter 19 (§ 46.2-1900 et seq.) of this title and employed by a person who manufactures or assembles
 43 motor vehicles or by a factory branch for the purpose of making or promoting the sale of its motor
 44 vehicles or for supervising or contacting its dealers, prospective dealers, or representatives in the
 45 Commonwealth.

46 "Factory repurchase motor vehicle" means a motor vehicle sold, leased, rented, consigned, or
 47 otherwise transferred to a person under an agreement that the motor vehicle will be resold or otherwise
 48 retransferred only to the manufacturer or distributor of the motor vehicle, and which is reacquired by the
 49 manufacturer or distributor, or its agents.

50 "Family member" means a person who either (i) is the spouse, child, grandchild, spouse of a child,
 51 spouse of a grandchild, brother, sister, or parent of the dealer or owner or (ii) has been employed
 52 continuously by the dealer for at least five years.

53 "Franchise" means a written contract or agreement between two or more persons whereby one
 54 person, the franchisee, is granted the right to engage in the business of offering and selling, servicing, or
 55 offering, selling, and servicing new motor vehicles of a particular line-make or late model or factory
 56 repurchase motor vehicles of a particular line-make manufactured or distributed by the grantor of the

57 right, the franchisor, and where the operation of the franchisee's business is substantially associated with
58 the franchisor's trademark, trade name, advertising, or other commercial symbol designating the
59 franchisor, the motor vehicle or its manufacturer or distributor. The term shall include any severable part
60 or parts of a franchise agreement which separately provides for selling and servicing different line-makes
61 of the franchisor.

62 "Franchised late model or factory repurchase motor vehicle dealer" means a dealer in late model or
63 factory repurchase motor vehicles, including a franchised new motor vehicle dealer, that has a franchise
64 agreement with a manufacturer or distributor of the line-make of the late model or factory repurchase
65 motor vehicles.

66 "Franchised motor vehicle dealer" means a dealer in new motor vehicles that has a franchise
67 agreement with a manufacturer or distributor of new motor vehicles, trailers, or semitrailers.

68 "Fund" means the Motor Vehicle Dealer Board Fund.

69 "Independent motor vehicle dealer" means a dealer in used motor vehicles.

70 "Late model motor vehicle" means a motor vehicle of the current model year and the immediately
71 preceding model year.

72 "Line-make" means the name of the motor vehicle manufacturer or distributor and a brand or name
73 plate marketed by the manufacturer or distributor.

74 "Manufacturer" means a person who is licensed by the Department of Motor Vehicles under Chapter
75 19 (§ 46.2-1900 et seq.) of this title and engaged in the business of constructing or assembling new
76 motor vehicles and, in the case of trucks, also means a person engaged in the business of manufacturing
77 engines, power trains, or rear axles, when such engines, power trains, or rear axles are not warranted by
78 the final manufacturer or assembler of the truck.

79 "Motor vehicle" means the same as provided in § 46.2-100, except, for the purposes of this chapter,
80 it shall not include (i) trailers and semitrailers; (ii) mobile homes, sales of which are regulated under
81 Chapter 4.2 (§ 36-85.16 et seq.) of Title 36; (iii) motor homes; (iv) motorcycles; (v) nonrepairable
82 vehicles, as defined in § 46.2-1600; and (vi) salvage vehicles, as defined in § 46.2-1600.

83 "Motor vehicle dealer" or "dealer" means any person who:

84 1. For commission, money, or other thing of value, buys, sells, exchanges, either outright or on
85 conditional sale, bailment lease, chattel mortgage, or otherwise or arranges or offers or attempts to
86 solicit or negotiate on behalf of others a sale, purchase, or exchange of an interest in new motor
87 vehicles, new and used motor vehicles, or used motor vehicles alone, whether or not the motor vehicles
88 are owned by him; or

89 2. Is wholly or partly engaged in the business of selling new motor vehicles, new and used motor
90 vehicles, or used motor vehicles only, whether or not the motor vehicles are owned by him; or

91 3. Offers to sell, sells, displays, or permits the display for sale, of five or more motor vehicles within
92 any twelve consecutive months.

93 The term "motor vehicle dealer" does not include:

94 1. Receivers, trustees, administrators, executors, guardians, conservators or other persons appointed
95 by or acting under judgment or order of any court or their employees when engaged in the specific
96 performance of their duties as employees.

97 2. Public officers, their deputies, assistants, or employees, while performing their official duties.

98 3. Persons other than business entities primarily engaged in the leasing or renting of motor vehicles
99 to others when selling or offering such vehicles for sale at retail, disposing of motor vehicles acquired
100 for their own use and actually so used, when the vehicles have been so acquired and used in good faith
101 and not for the purpose of avoiding the provisions of this chapter.

102 4. Persons dealing solely in the sale and distribution of fire-fighting equipment, ambulances, and
103 funeral vehicles, including motor vehicles adapted therefor; however, this exemption shall not exempt
104 any person from the provisions of §§ 46.2-1519, 46.2-1520 and 46.2-1548.

105 5. Any financial institution chartered or authorized to do business under the laws of the
106 Commonwealth or the United States which may have received title to a motor vehicle in the normal
107 course of its business by reason of a foreclosure, other taking, repossession, or voluntary reconveyance
108 to that institution occurring as a result of any loan secured by a lien on the vehicle.

109 6. An employee of an organization arranging for the purchase or lease by the organization of
110 vehicles for use in the organization's business.

111 7. Any person licensed to sell real estate who sells a mobile home or similar vehicle in conjunction
112 with the sale of the parcel of land on which the mobile home or similar vehicle is located.

113 8. Any person who permits the operation of a motor vehicle show or permits the display of motor
114 vehicles for sale by any motor vehicle dealer licensed under this chapter.

115 9. An insurance company authorized to do business in the Commonwealth that sells or disposes of
116 vehicles under a contract with its insured in the regular course of business.

117 10. Any publication, broadcast, or other communications media when engaged in the business of

118 advertising, but not otherwise arranging for the sale of vehicles owned by others.

119 11. Any person dealing solely in the sale or lease of vehicles designed exclusively for off-road use.

120 12. Any credit union authorized to do business in Virginia, provided the credit union does not
121 receive a commission, money, or other thing of value directly from a motor vehicle dealer.

122 13. Any person licensed as a manufactured home dealer, broker, manufacturer, or salesperson under
123 Chapter 4.2 (§ 36-85.16 et seq.) of Title 36.

124 14. *The State Department of Social Services or local departments of social services.*

125 "Motor vehicle salesperson" or "salesperson" means any person who is licensed as and employed as a
126 salesperson by a motor vehicle dealer to sell or exchange motor vehicles. It shall also mean means any
127 person who is licensed as a motor vehicle dealer and who sells or exchanges motor vehicles.

128 "Motor vehicle show" means a display of motor vehicles to the general public at a location other
129 than a dealer's location licensed under this chapter where the vehicles are not being offered for sale or
130 exchange during or as part of the display.

131 "New motor vehicle" means any vehicle which (i) has not been previously sold except in good faith
132 for the purpose of resale, (ii) has not been used as a rental, driver education, or demonstration motor
133 vehicle, or for the personal and business transportation of the manufacturer, distributor, dealer, or any of
134 his employees, (iii) has not been used except for limited use necessary in moving or road testing the
135 vehicle prior to delivery to a customer, (iv) is transferred by a certificate of origin, and (v) has the
136 manufacturer's certification that it conforms to all applicable federal motor vehicle safety and emission
137 standards. Notwithstanding provisions (i) and (iii), a motor vehicle that has been previously sold but not
138 titled shall be deemed a new motor vehicle if it meets the requirements of provisions (ii), (iv), and (v).

139 "Original license" means a motor vehicle dealer license issued to an applicant who has never been
140 licensed as a motor vehicle dealer in Virginia or whose Virginia motor vehicle dealer license has been
141 expired for more than thirty days.

142 "Relevant market area" means as follows:

143 1. In metropolitan localities, the relevant market area shall be a circular area around an existing
144 franchised dealer with a population of 250,000, not to exceed a radius of ten miles, but in no case less
145 than seven miles.

146 2. If the population in an area within a radius of ten miles around an existing franchised dealer is
147 less than 250,000, but the population in an area within a radius of fifteen miles around an existing
148 franchised dealer is 150,000 or more, the relevant market area shall be that area within the fifteen-mile
149 radius.

150 3. In all other cases the relevant market area shall be an area within a radius of twenty miles around
151 an existing franchised dealer or the area of responsibility defined in the franchise, whichever is greater.
152 In any case where the franchise agreement is silent as to area of responsibility, the relevant market area
153 shall be the greater of an area within a radius of twenty miles around an existing franchised dealer or
154 that area in which the franchisor otherwise requires the franchisee to make significant retail sales or
155 sales efforts.

156 In determining population for this definition, the most recent census by the U.S. Bureau of the
157 Census or the most recent population update, either from the National Planning Data Corporation or
158 other similar recognized source, shall be accumulated for all census tracts either wholly or partially
159 within the relevant market area.

160 "Retail installment sale" means every sale of one or more motor vehicles to a buyer for his use and
161 not for resale, in which the price of the vehicle is payable in one or more installments and in which the
162 seller has either retained title to the goods or has taken or retained a security interest in the goods under
163 form of contract designated either as a security agreement, conditional sale, bailment lease, chattel
164 mortgage, or otherwise.

165 "Sale at retail" or "retail sale" means the act or attempted act of selling, bartering, exchanging, or
166 otherwise disposing of a motor vehicle to a buyer for his personal use and not for resale.

167 "Sale at wholesale" or "wholesale" means a sale to motor vehicle dealers or wholesalers other than to
168 consumers; a sale to one who intends to resell.

169 "Used motor vehicle" means any vehicle other than a new motor vehicle as defined in this section.

170 "Wholesale auction" means an auction of motor vehicles restricted to sales at wholesale.

171 § 63.1-133.46. Case management; support services; transitional support services.

172 A. The Commissioner of Social Services, through the local departments of social services, with such
173 funds as appropriated, shall offer services under the Job Opportunities and Basic Skills Training Program
174 to all families participating in the Program.

175 B. The Commissioner of Social Services, through the local departments of social services, with such
176 funds as appropriated, shall offer families participating in the Program intensive case management
177 services throughout the family's participation in the Program. Case management services shall include
178 initial assessment of the full range of services that will be needed by each family including testing and

179 evaluation, development of the individualized agreement of personal responsibility, and periodic
180 reassessment of service needs and the agreement of personal responsibility. It shall be the goal of the
181 Department to have a statewide intensive case management ratio not higher than the prevailing statewide
182 average ratio in the JOBS Program in Virginia as the ratio exists in the JOBS Program on the date of
183 enactment of this act. The Department shall seek to achieve this goal during the first year of
184 implementation. By December 1, 1996, the Commissioner shall develop and submit a report to the
185 Governor and General Assembly concerning the establishment of a classification system for caseload
186 management in the Program. The Department shall include in its annual report to the Governor and
187 General Assembly an evaluation of program effectiveness statewide and by locality, including an
188 evaluation of case management services.

189 C. Local departments of social services are authorized to provide services to VIEW families
190 throughout the family's participation in VIEW subject to regulations promulgated by the State Board,
191 including:

192 1. Day care for the children of participants if:

193 a. The participant is employed and day-care services are essential to the continued employment of the
194 participant;

195 b. Day-care services are required to enable a participant to receive job placement, job training or
196 education services; or

197 c. The participant is otherwise eligible for day care pursuant to State Board regulations.

198 2. Transportation which will enable parental employment or participation in services required by the
199 agreement of personal responsibility.

200 3. Job counseling, education and training, and job search assistance consistent with the purposes of
201 VIEW.

202 4. Medical assistance.

203 D. A participant whose AFDC financial assistance is terminated, either voluntarily or involuntarily,
204 shall receive the following services for up to twelve months after termination, if needed:

205 1. Assistance with child day care if such assistance enables the individual to work;

206 2. Assistance with transportation, if such transportation enables the individual to work; and

207 3. Medical assistance, including transitional medical assistance for families with a working parent
208 who becomes ineligible for AFDC financial assistance because of increased earnings, unless (i) medical
209 insurance is available through the parent's employer or (ii) family income exceeds 185 percent of the
210 federal poverty level.

211 *E. The State Department of Social Services or local departments of social services may purchase or*
212 *otherwise acquire motor vehicles from the centralized fleet of motor vehicles controlled by the*
213 *Commonwealth Transportation Commissioner under Chapter 12 (§ 33.1-400 et seq.) of Title 33.1 and*
214 *sell or otherwise transfer such vehicles to Temporary Assistance to Needy Families (TANF) recipients or*
215 *former recipients. Purchases, sales, and other transfers of vehicles under this subsection shall not be*
216 *subject to the provisions of the Virginia Public Procurement Act (§ 11-35 et seq.), or the provisions of*
217 *§§ 2.1-457.2, 2.1-505, 2.1-512, and 33.1-404 relating to the sale, purchase, and transfer of surplus*
218 *motor vehicles and other surplus state property.*

219 ~~E.~~ F. Nothing in this section shall be construed or interpreted to create a cause of action or
220 administrative claim based upon a right or entitlement to any specific services or an exemption or
221 waiver from any provision of this Program.