

**RS 32:781**

CHAPTER 4-C. LOUISIANA  
USED MOTOR VEHICLE COMMISSION  
PART I. DEFINITIONS AND GENERAL PROVISIONS

## §781. Definitions

As used in this Chapter:

(1) Repealed by Acts 2015, No. 119, §2.

(2) "Commission" means the Louisiana Used Motor Vehicle Commission or its designee.

(3) "Dismantler and parts recycler" means a person, firm, or corporation engaged in whole or in part in the business of acquiring and dismantling, disassembling, or repairing wrecked, abandoned, or repairable motor vehicles or selling the usable parts thereof, or selling such wrecked, abandoned, or repairable motor vehicles as a unit of wholesale, or selling such repaired motor vehicles as a unit at wholesale. For purposes of this Chapter, a person, firm, or corporation shall be presumed to be engaging in the business of a dismantler and parts recycler if such person, firm, or corporation possesses ten or more inoperable motor vehicles for more than thirty days, except when such inoperable motor vehicles are being held:

(a) By a licensed tow truck owner or operator.

(b) By a scrap metal processor to recycle the scrap metal.

(c) By a bona fide repair business awaiting repairs.

(4) "Dismantler and parts recycler sales representative" shall include anyone who, for compensation of any kind, sells or brokers any used motor vehicle or any usable part of a used motor vehicle.

(5) "Motor vehicle" means any motor-driven vehicle required to be registered that was used, is used, or is designed to be used for the transporting of passengers or goods for public, private, commercial, or for-hire purposes.

(6) "Motor vehicle crusher" means any person, firm, limited liability corporation, or corporation engaged in whole or in part in the business of purchasing and crushing or compacting motor vehicles and selling the crushed or compacted vehicle for scrap.

(7) "Place of business" means the place owned or leased and regularly occupied by a person, partnership, corporation, limited liability company, or other entity licensed under the provisions of this Chapter for the principal purpose of auctioning, renting, or selling used motor vehicles, crushing or compacting used motor vehicles and selling the crushed or compacted vehicle for scrap, or engaging in the business of a dismantler and parts recycler, where the products for sale are displayed and offered for sale, and where the books and records required for the conduct of the business are maintained and kept.

(7.1) "Public or retail motor vehicle auction" means the act of any person, partnership, corporation, limited liability company, or other entity engaging in, for a commission, compensation, or other consideration, the business of providing vehicle auction services at an established place of business which is not open exclusively to motor vehicle dealers, dismantlers, and parts recyclers.

(8) "Salvage pool or salvage disposal sale" means a scheduled sale at auction or by private bid of wrecked or repairable motor vehicles by insurance companies, or by used motor vehicle dealers, or automotive dismantlers and parts recyclers licensed by the commission.

(9) "Scrap metal processor" means any person or entity engaged in the business of obtaining and storing scrap metal, as defined by R.S. 37:1962, whose origin included abandoned, wrecked, or junked motor vehicles for recycling.

(10) "Ultimate purchaser" means the first person or corporate entity, other than a dealer purchasing in his capacity as a dealer, who in good faith purchases a new motor vehicle for purposes other than resale. "Ultimate purchaser" shall not include a person who purchases a vehicle for purposes of altering or remanufacturing the motor vehicle for future resale.

(11) "Used fire truck" means any motorized vehicle, the legal title of which has been transferred by a manufacturer, distributor, or dealer to an ultimate purchaser, utilized by a fire department in transporting firefighters or equipment to fires and emergency calls and supports extinguishing operations such as water, pumps, ladders, special service apparatus, hoses, foam, air, lights, rescue equipment, and utility equipment.

(12) "Used motor vehicle" means a motor vehicle, which has been previously titled to an ultimate purchaser as defined in R.S. 32:1252.

(13)(a)(i) "Used motor vehicle dealer" means any person, partnership, corporation, limited liability company, or other entity who, for a commission or with intent to make a profit or gain of money or other thing of value, buys, sells, brokers, exchanges, rents with option to purchase, auctions at retail or public, offers, or attempts to negotiate a sale or exchange of an interest in used motor vehicles and who is engaged wholly or in part in the business of buying and selling used motor vehicles, whether such motor vehicles are owned by such person and whether the motor vehicles are sold from a dealership location or via any form of advertising, including but not limited to the Internet. A person shall be presumed to be engaged in the business of selling used motor vehicles if he sells five or more used motor vehicles in any twelve-month period which vehicles are not registered to and insured by members of the individual's household, immediate family members, or legal entities in which the individual has an ownership interest or which employ the individual. An entity shall be presumed to be engaged in the business of selling used motor vehicles if the entity sells five or more used motor vehicles which are not registered to and insured by the entity or by an entity affiliated with the entity receiving anything of value.

(ii) The term shall also include anyone not licensed under Chapter 6 of Title 32 of the Louisiana Revised Statutes of 1950 who sells used motor vehicles and who rents on a daily basis used motor vehicles.

(b) "Used motor vehicle dealer" shall not include any of the following:

(i) Receivers, trustees, administrators, executors, guardians, or other persons appointed by or acting under the judgment or order of any court.

(ii) Public officers while performing their official duties.

(iii) Employees of persons enumerated in the definition of "used motor vehicle dealer" when engaged in the specific performance of their duties as such employees.

(iv) Mortgagees or secured parties as to sales of motor vehicles constituting collateral on a mortgage or security agreement.

(v) Insurance companies.

(vi) Auctioneers or auction houses who are not engaged in the auction of used motor vehicles as the principal part of their business, including but not limited to the following auctions: estate auctions, bankruptcy auctions, farm equipment auctions, or government auctions.

(14) "Used motor vehicle salesperson" shall include anyone who is actively engaged in the sale, offering for sale, or negotiations to sell a used motor vehicle, including those engaged in management or finance and insurance, and who for compensation of any kind operates as a broker or is compensated for any referral of a prospective buyer to a used motor vehicle dealer. "Compensation" for purposes of this Chapter means any thing of value including money, merchandise, rebates on purchases, trading stamps, or any other thing of value.

(15) "Used wrecker" means a truck, the legal title of which has been transferred, by a manufacturer, distributor, or dealer to an ultimate purchaser, with a hoist and towing apparatus used in towing wrecked or disabled vehicles.

(16) "Water-damaged vehicle" means any motor vehicle whose power train, computer, or electrical system has been damaged by flooding.

(17) "Wholesale motor vehicle auction" means the act of any person, partnership, corporation, limited liability company, or other entity engaging in, for a commission, compensation, or other consideration, the business of providing wholesale vehicle auction services at an established place of business which is open exclusively to licensed motor vehicle dealers, dismantlers, and parts recyclers.

Acts 2006, No. 440, §1; Acts 2007, No. 446, §1; Acts 2009, No. 403, §§1, 2, eff. July 7, 2009; Acts 2010, No. 987, §1; Acts 2012, No. 136, §1; Acts 2013, No. 204, §1; Acts 2014, No. 423, §1; Acts 2015, No. 119, §§1, 2; Acts 2018, No. 435, §1, eff. May 23, 2018.

**RS 32:782****§782. Purpose; jurisdiction and authority of the commission**

A. The Louisiana Used Motor Vehicle Commission is created for the purpose of developing and advancing the independent used motor vehicle industry, promoting and stimulating its businesses, and encouraging fair business practices to strive for fair competition. Further, the commission understands its role in representing the consumers of used motor vehicles and seeks to protect their interests by strengthening the relationship between dealers and consumers, assisting in dispute resolution, maintaining education programs to promote industry standards, and assisting the office of motor vehicles in enforcement of its laws related to used motor vehicle transactions.

B. The provisions of this Chapter shall not apply to any person, partnership, corporation, limited liability company, or other entity that is licensed or regulated by the Louisiana Motor Vehicle Commission. If any provision of this Chapter conflicts with any provision of Chapter 6 of this Title, the provisions of Chapter 6 of this Title shall prevail.

Acts 2006, No. 440, §1; Acts 2009, No. 403, §1, eff. July 7, 2009; Acts 2018, No. 435, §1, eff. May 23, 2018.

**RS 32:783**

§783. Used Motor Vehicle Commission; appointment and qualification; terms of office; powers and duties

A. There is hereby created the Louisiana Used Motor Vehicle Commission within the office of the governor to be composed of ten members all appointed by the governor with the confirmation of the Senate. Five members shall be licensed used motor vehicle dealers, one selected from each public service commission district. One member shall be a licensed automotive dismantler or parts recycler, three members shall be consumers selected from the state at large, and one member shall be a person licensed to conduct used motor vehicle auctions or salvage pool auctions. The chairman shall be designated by the governor.

B.(1) The terms of the chairman and commissioners shall be coterminous with that of the governor making the appointment and until his successor is appointed and is qualified. The term of office of any member shall automatically expire if the member moves out of the public service commission district from which he was appointed. In the event of death, resignation, removal, or automatic expiration of term of any person serving on the commission, the vacancy shall be filled for the unexpired portion of the term in the manner of original appointment.

(2) The commission shall meet at Baton Rouge and complete its organization immediately after the entire membership has been appointed and qualified.

(3) The chairman and each member of the commission shall take and subscribe to the oath of office required of public officers.

C.(1) The chairman and members of the commission shall receive seventy-five dollars for each and every day actually and necessarily spent in attending the meetings of the commission, including any commission committee meetings, and shall be reimbursed for subsistence and traveling expenses incurred in the performance of their duties hereunder as provided by the commissioner of the division of administration.

(2) Such meeting payments shall not exceed the sum of eighteen hundred dollars per annum to any one person.

D.(1) The commission shall appoint a qualified person to serve as executive director who shall have had sufficient management and organizational experience in the automotive industry to direct the functions of the commission. The commission shall fix his salary and shall define and prescribe his duties.

(2) The executive director shall be in charge of the commission's office and shall devote such time as necessary to fulfill the duties thereof, and before entering upon his duties he shall take and subscribe to the oath of office.

(3) The commission may employ such clerical, technical, legal, and other help and incur such expenses as may be necessary for the proper discharge of its duties under this Chapter.

(4) The commission shall maintain its office and transact its business in Baton Rouge and is authorized to adopt and use a seal.

E.(1) The commission is hereby vested with the powers and duties necessary and proper to enable it to fully and effectively carry out and enforce the provisions and objectives of this Chapter and is hereby authorized and empowered to make and enforce all reasonable rules and regulations and to adopt and prescribe all forms necessary to accomplish said purpose. The enumeration of any power or authority herein shall not be construed to deny, impair, disparage, or limit any others necessary to the attainment thereof. All rules and regulations shall be adopted in accordance with the provisions of the Administrative Procedure Act. Oversight review shall be conducted by the House Committee on Commerce and the Senate Committee on Transportation, Highways and Public Works.

(2) The commission shall have the full power and authority to purchase, acquire, develop, expand, sell, lease, maintain, mortgage, borrow funds, or otherwise contract with respect to immovable property and improvements thereon as it may deem necessary or appropriate to accomplish the provisions of this Chapter. Additionally, the commission shall have the authority to borrow funds with the approval of the State Bond Commission and to expend funds of the commission for the acquisition of immovable property and improvements thereon. In the event that the commission sells immovable property and improvements thereon, the revenue derived from the sale shall be retained by the commission and shall not be subject to reversion to the state general fund.

F. The commission's powers and duties shall include but are not limited to the following:

(1) Licensing used motor vehicle dealers and salespersons, motor vehicle crushers, dealers of used parts and accessories, and dismantlers and parts recyclers.

(2) Inspecting used motor vehicle dealers, motor vehicle crushers, dealers of used parts and accessories locations, and dismantlers and parts recyclers locations to ensure that they are in an approved location, meet local zoning or other municipal requirements, and have sufficient facilities which shall include but not be limited to a business sign, a listed and usable telephone number, and a sales office.

(3) Repealed by Acts 2018, No. 435, §2.

(4) Working with consumers and dealers to hear complaints on used vehicles and parts and to establish a Used Car Consumer Action Panel to hear complaints on a condition of sale, implied and written warranties, and service complaints.

(5) Requiring all dismantlers, motor vehicle crushers, dealers of used parts and accessories, recyclers, and dealers to maintain their records for a period of three years and to keep their records, vehicles, and places of business open to inspection by any peace officer or agent of the Department of Public Safety and Corrections or of the commission during reasonable hours. Such records shall include bills of sale, financing or mortgage records, and monthly sales reports.

(6) Holding and conducting hearings on violations of this Chapter, mandatory repurchase disputes, imposing civil penalties, cease and desist orders, and revocation or suspension of licenses.

(7) Repealed by Acts 2009, No. 403, §2, effective July 7, 2009.

(8)(a) Taking possession of certificates of title and further distributing those titles to the rightful owners pursuant to R.S. 32:705 from:

(i) A used motor vehicle dealer who has failed or refused to provide a certificate of title to his customer or to the rightful owners pursuant to R.S. 32:705.

(ii) A floor plan financier or other similar holder of a security interest relative to a used motor vehicle who has failed or refused to provide a certificate of title to a bona fide retail purchaser in actual good faith in accordance with R.S. 32:710(D).

(b)(i) The executive director of the commission is empowered to take any and all actions necessary to obtain and deliver a certificate of title to a retail purchaser in actual good faith including instituting or participating in any legal action to obtain a certificate of title and endorsing a certificate of title on behalf of any used motor vehicle dealer who either refuses or is unavailable to sign or endorse the certificate of title.

(ii) If the commission institutes or participates in legal action to obtain a certificate of title for delivery to a retail purchaser in actual good faith, the commission is entitled to an award of reasonable attorney fees and court costs to be paid by the individual or entity responsible for delivery of the certificate of title.

(9) Issuing, serving, and enforcing a subpoena or subpoena duces tecum pursuant to any hearing or lawful investigation into the suspected misconduct of any licensee.

(10) Having the sole and exclusive authority to administer all claims made against the bond required by R.S. 32:791(G), including the denial or rejection of any claim.

(a) The executive director of the commission is authorized to take any action necessary to administer claims against any bond, including instituting or intervening in a legal action to obtain payment of a claim or to prevent payment of an unauthorized claim.

(b) If the commission institutes or intervenes in any legal action as authorized by Subparagraph (a) of this Paragraph and prevails, the court shall award the commission reasonable attorney fees and court costs to be paid by the licensee, surety, or both.

G. All fees and charges under the provisions of this Chapter shall be collected and received by the executive director of the commission and shall be disbursed by him at the direction of the commission in administering and enforcing the provisions of this Chapter.

H. Repealed by Acts 2012, No. 834, §13, eff. July 1, 2012.

I. The commission shall, in addition to the powers herein conferred, be constituted a body politic or political corporation, invested with the powers inherent in corporations. It may sue and be sued under the style of the Louisiana Used Motor Vehicle Commission, and all process against the corporation shall be served on the chairman or executive director, and all suits on behalf of the commission shall be brought by the chairman or his designee. The domicile for the purpose of being sued shall be in East Baton Rouge Parish. Service of process shall be made upon the chairman or upon the executive director of the commission in person. No member of the board shall be held liable as an individual in any suit against the board.

Acts 2006, No. 440, §1; Acts 2007, No. 446, §1; Acts 2009, No. 403, §§1, 2, eff. July 7, 2009; Acts 2010, No. 987, §1; Acts 2012, No. 834, §§5, 13, eff. July 1, 2012; Acts 2016, No. 288, §1; Acts 2018, No. 435, §§1, 2, eff. May 23, 2018.

**RS 32:784**

§784. Dealers, dismantlers, and auctions to be licensed; exception

A. No person, firm, or corporation, unless licensed by the commission under the provisions of this Chapter, shall carry on or conduct the business of any of the following:

- (1) A used motor vehicle dealer.
- (2) A dealer in used parts or used accessories of motor vehicles.
- (3) A dismantler and parts recycler.

(4) Public or retail motor vehicle auctions, wholesale motor vehicle auctions, or salvage pools that deal in used motor vehicles.

(5) A rent-to-own dealer as defined in R.S. 32:793(A).

(6) A used motor vehicle salesperson for any dealer licensed pursuant to this Chapter.

(7) A used motor vehicle dealer who provides daily rentals of used motor vehicles as defined in R.S. 32:781.

(8) A motor vehicle crusher as defined in R.S. 32:781.

B. Repealed by Acts 2018, No. 435, §2.

C. No person, partnership, corporation, limited liability company, or other entity, unless licensed by the commission as a used car dealer, shall engage in the business as a "broker", "purchasing company", "sales agent", or similar title for the procurement of prospective purchasers for used motor vehicles.

D. No person, partnership, corporation, limited liability company, or other entity licensed by the Louisiana Used Motor Vehicle Commission shall display any used motor vehicle at any place other than at a facility licensed by the commission, unless an off-premises permit authorizing the display of such used motor vehicle at the location has been issued by the commission. The commission may issue one off-premises permit to a dealer in any ninety-day period in accordance with rules and regulations authorizing the display of up to five vehicles at an event within thirty-five miles of the dealer's place of business for a period of up to three days.

E. A public or retail motor vehicle auction shall not be required to obtain an off-premises permit to auction, via an Internet site, a used motor vehicle for a third party which is in the possession of the third party.

Acts 2006, No. 440, §1; Acts 2007, No. 446, §1; Acts 2008, No. 220, §10, eff. June 14, 2008; Acts 2009, No. 403, §§1, 2, eff. July 7, 2009; Acts 2010, No. 987, §1; Acts 2013, No. 204, §1; Acts 2018, No. 435, §1, eff. May 23, 2018.

**RS 32:785**

§785. Procedures for denial, suspension, or revocation of license; notice; hearings; appeals; abandonment of business

A.(1) The executive director shall notify in writing each applicant for licensure of the action taken by the commission on the application.

(2) Any applicant who has been denied a license shall be notified of the grounds for denial as set forth in R.S. 32:792(A).

(3) Within thirty days from receipt of the denial, an applicant whose application has been denied may request in writing a review of the denial by the commission.

(4) The commission shall hear all denials with reasonable promptness upon reasonable notice to the applicant.

(5) Any applicant who requests a review of the denial of his application shall provide either written or oral support for his application. Without such support, the request for review shall be denied.

(6) Following the review, the commission shall either affirm or reverse the denial.

(7) The commission's decision to affirm the denial shall be final when rendered. The applicant may appeal the decision as provided in Subsection C of this Section.

B.(1) Any licensee charged with violating the provisions of this Chapter shall be entitled to a hearing on the alleged violation.

(2)(a) The commission shall serve the licensee with written notice of the hearing at least twenty calendar days prior to conducting the hearing on the alleged violation.

(b) The commission shall serve the notice of the hearing on the licensee by certified or registered mail to the address for the licensee as provided on the licensee's application, by personal physical service on the licensee, or if a dealer, by service on any one of its employees or by posting notice at the entrance of the licensed premises where the alleged violation occurred.

(c) The notice shall contain the time and place of the hearing, the alleged violations, the facts in support of the alleged violations, the possible penalty, and the licensee's rights at the hearing.

(d) A copy of the notice shall be mailed by certified or registered mail to the surety on the licensee's bond at the address of the surety as written on the bond.

(e) If the licensee is a salesperson, a copy of the notice shall be mailed by certified or registered mail to the licensed dealer.

(f) If the issues alleging a possible violation were first presented to the commission by a complaint filed with the commission, a copy of the notice shall be mailed to the complainant by United States mail.

(3) Any party to a hearing shall have the right to compel the attendance of witnesses by requesting the issuance of subpoenas. The commission shall issue any subpoena requested in writing no later than ten days prior to the hearing. The party requesting a subpoena be issued shall pay all witness fees in accordance with R.S. 13:3661, as well as the estimated cost to be incurred in the delivery of the subpoenas. The commission may compel the attendance of its own witnesses by the issuance of subpoenas.

(4) The commission shall consider any pleading filed by the licensee no later than five days prior to the hearing.

(5) The commission shall determine whether the licensee has violated any of the provisions of this Chapter, any statutes related to the registration of motor vehicles, including the use of temporary license plates and the collection of sales and use tax, and any rules and regulations promulgated by the commission.

(6)(a) The commission may impose sanctions including the imposition of restrictions on any license, the revocation or suspension of any license, the imposition of civil fines, the imposition of restitution or injunction, the assessment of all costs of the hearing including commission attorney fees, witness fees and travel expenses and per diem of commissioners, and the requirement that the licensee attend a four-hour educational seminar within three months of the hearing decision. The commission may also enter into stipulations.

(b) The commission findings and orders shall be reduced to writing and served on the licensee in any manner consistent with the service provided for in Subparagraph (B)(2)(b) of this Section.



(c) The commission decisions revoking or suspending a license or enjoining a licensee shall be final and enforceable when rendered.

(d) The commission decisions imposing a civil penalty shall become payable thirty days from the date the order is served on the licensee.

C.(1) Appeals of any decision denying a license or revoking or suspending a license shall not constitute a stay of the decision of the commission.

(2) Appeals of any decision of the commission shall be heard in accordance with the Administrative Procedure Act.

D.(1) When the licensed premises of a used motor vehicle dealer are abandoned, the license of the dealer and any salespersons shall be revoked without a hearing if a request or application for a hearing on the revocation is not made within five business days following the posting of a notice on the front door of the business that the license will be revoked for abandonment.

(2) Licensed premises shall be considered abandoned if any one of the following exists:

(a) There are no salespersons or dealer on the premises during the posted business hours for a period of more than one week without notice to the commission.

(b) The business telephone, as provided on the dealer's license application, is disconnected or no longer in service.

(c) The business sign has been removed.

Acts 2006, No. 440, §1; Acts 2009, No. 403, §1, eff. July 7, 2009; Acts 2013, No. 204, §1.

**RS 32:786****§786. Injunctions; cease and desist orders**

A. The commission is hereby authorized without cost, bond, or deposit to institute injunctive actions in courts of competent jurisdiction in the name of the state on the relation of the commission to enforce the provisions of this Chapter.

B. Any licensee or other person who violates or threatens to violate any provision of this Chapter or rule or regulation promulgated thereunder may be enjoined from committing or continuing the violation or engaging in any business for which a license has been issued under this Chapter. In addition to any other proper venue, the parish of East Baton Rouge shall constitute a proper venue for the institution by the commission of judicial actions authorized under this Chapter.

C. All costs, including reasonable attorney fees set by the court incurred by the commission, shall be borne by the person or licensee who has been so enjoined.

D.(1) If it appears to the commission at any time that a person is violating the provisions of this Chapter or any rule or order of the commission issued pursuant to this Chapter, it shall notify the person engaged in such conduct to appear and show cause why a cease and desist order should not be issued prohibiting the proscribed conduct. An interlocutory cease and desist order may be granted with or without bond or other undertaking if one or all of the following conditions exist:

(a) Such an order is necessary to the performance of the duties delegated to the commission by this Chapter or is otherwise necessary or convenient to maintaining the status quo between two or more adverse parties before the commission.

(b) A party before the commission is entitled to relief demanded of the commission, and all or part of the relief requires the restraint of some act prejudicial to the party.

(c) A person is performing or is about to perform or is procuring or allowing the performance of an act relating to the subject of a contested case pending before the commission, and the act would tend to render the commission's order in that case ineffectual.

(d) Substantial injury to the rights of a person subject to the commission's jurisdiction is threatened irrespective of any remedy at law.

(2) Interlocutory cease and desist orders shall remain in effect until vacated or until incorporated into a final commission order. Permanent cease and desist orders may be issued without regard to the enumerations in Paragraph (1) of this Subsection, but only in accordance with the provisions of this Chapter pertaining to the issuance of final commission orders.

(3) Appeal of any interlocutory cease and desist order shall be made to the commission prior to seeking judicial review under the provisions of this Chapter. Appeal of a permanent cease and desist order shall be conducted pursuant to the provisions of this Chapter pertaining to judicial review of final orders.

Acts 2006, No. 440, §1.

**RS 32:787****§787. Criminal penalties**

Any person, firm, association, corporation, limited liability company, or trust which is required to be licensed under the provisions of this Chapter, committing a violation of this Chapter shall, upon conviction, be fined not less than five hundred dollars nor more than one thousand dollars, and each day that a person, firm, association, corporation, or trust violates this Chapter shall constitute a separate offense.

Acts 2006, No. 440, §1; Acts 2009, No. 403, §1, eff. July 7, 2009.

**RS 32:788****§788. Civil penalties**

A. If the commission shall determine that any applicant is not qualified to receive a license, a license shall not be granted to said applicant, and if the commission shall determine that any licensee is guilty of a violation of any of the provisions of this Chapter or the rules and regulations of the commission, his or its license may be suspended or revoked or a civil penalty may be imposed by the commission. The commission may also impose a civil penalty against any person, firm, association, corporation, limited liability company, or trust which is determined by the commission to have violated any of the provisions of this Chapter or the rules and regulations of the commission.

B.(1) No civil penalty imposed for the violation of the provisions of this Chapter or the rules and regulations of the commission shall exceed two thousand dollars for each day such violation continues.

(2) On a second or subsequent violation, no civil penalty imposed shall exceed three thousand dollars for each day such second or subsequent violation continues. In order to constitute a second or subsequent violation there must occur a lapse of at least one day following the first or previous violation.

C. Any civil penalty imposed by the commission may, in the discretion of the commission, be suspended in whole or in part.

D. Upon the failure of any person, firm, association, corporation, limited liability company, or trust to timely pay any civil penalty imposed by the commission when due, the commission shall be entitled to recover by suit or otherwise, from such party all costs of collection, including court costs, deposition, and other discovery costs, and reasonable attorney fees incurred by the commission in collecting such civil penalty.

Acts 2006, No. 440, §1; Acts 2012, No. 136, §1.

**RS 32:789****§789. Sale of used water-damaged vehicles**

A. No used motor vehicle dealer, nor any person or entity, shall sell, transfer, or convey any used motor vehicle to any person without notifying the buyer or receiver of the vehicle in writing of the extent of any water damage from flooding which occurred to the vehicle prior to the transaction.

B. If a sale, transfer, or conveyance of a used motor vehicle occurs in violation of Subsection A of this Section, the person receiving ownership and title to the vehicle who is not otherwise aware of the damage at the time of the transaction may bring an action to set aside the transaction within one year from the date of the transaction and receive all monies or other property given as consideration for the vehicle less a reasonable assessment for miles driven.

Acts 2006, No. 440, §1; Acts 2009, No. 403, §1, eff. July 7, 2009.

**RS 32:790****§790. Black market sales; prohibition**

A. No person shall sell used motor vehicles by using fraudulent practices, such as forgery or providing a false or fraudulent name on a certificate of title, to escape the licensing requirements and the payment of license fees provided for in Parts II and IV of this Chapter and to escape the payment of state and local sales and use tax.

B. Any person who violates this Section shall be liable for a fine of up to three thousand dollars.

C. The Used Motor Vehicle Commission shall have the responsibility to enforce the provisions of this Section.

Acts 2006, No. 440, §1; Acts 2009, No. 403, §1, eff. July 7, 2009; Acts 2013, No. 204, §1.

**RS 32:791****PART II. USED MOTOR VEHICLE DEALERS**

§791. Application for license; renewal; fees; educational seminar; bond requirements; liability insurance; salesperson's license; location of business

A.(1) It shall be unlawful and shall constitute a misdemeanor for any person, firm, association, corporation, limited liability company, or trust to engage in business as, or serve in the capacity of, or act as a used motor vehicle dealer, rental dealer, or used motor vehicle salesperson in this state without first obtaining a license therefor as provided in this Section.

(2) Any person, firm, association, corporation, limited liability company, or trust engaging, acting, or serving in more than one of the foregoing capacities or having more than one place where the business is carried on or conducted shall be required to obtain and hold a current license for each capacity or location in which he, it, or they shall engage in such business provided that all used motor vehicle dealers shall have at least one licensed salesperson per location.

(3) Any person, firm, association, corporation, limited liability company, or trust which violates Paragraph (1) of this Subsection or Subparagraph (B)(4)(e) of this Section shall be fined not less than three hundred dollars nor more than one thousand dollars or imprisoned for not more than ninety days, or both.

B.(1) Applications for licensure as a used motor vehicle dealer shall be signed by the applicant, shall be on forms prescribed by the commission and furnished to such applicants, and shall contain such information as the commission deems necessary to enable it to fully determine the qualifications and eligibility of the several applicants to receive the license or licenses.

(2) The commission shall require in such application, or otherwise, information relating to:

(a) The applicant's financial standing.

(b) The applicant's business integrity.

(c) Whether the applicant has an established place of business and is engaged in the pursuit, avocation, or business for which each license is applied for.

(d) Whether the applicant is able to properly conduct the business for which each license is applied for.

(e) Such other pertinent information consistent with the safeguarding of the public interest and the public welfare.

(f) The name of the applicant.

(g) The street address of applicant's principal place of business and each additional place of business.

(h) The type of business organization of applicant.

(3)(a) All applications for license or licenses shall be accompanied by the appropriate fee or fees in accordance with the schedule provided in this Section. In the event any application is denied and the license applied for is not issued, the entire license fee shall be returned to the applicant.

(b) Every application for the issuance of a used motor vehicle dealer's license shall be accompanied by a certificate, as required by the commission pursuant to the provisions of R.S. 32:795, showing that the applicant has completed an approved educational seminar.

(4)(a) All bonds shall be for the license period and shall be nontransferable.

(b) Any dealer who submits a renewal application after the expiration date of an existing license shall be subject to a late penalty of one hundred dollars in addition to any penalty, fine, or cost assessed for operating without a license which shall be paid to the commission.

(c) Any dealer having a previous annual license shall be presumed to be a renewal applicant.

(d) Any dealer changing the name of the dealership, the dealership's address, the ownership of the dealership, or opening any additional place of business shall notify the commission within ten days of such change or be in violation of this Part.

(e) Any dealership ceasing to maintain its business shall surrender the dealership license to the commission within ten days and any failure to do so shall constitute a misdemeanor. Violations of this Subparagraph shall be punished as provided in Paragraph (A)(3) of this Section.

(f) The commission is authorized to adopt rules to implement the provisions of this Section.

(5) The office of motor vehicles of the Department of Public Safety and Corrections shall be notified not to accept dealers' titles until such time as licenses have been issued.

C. A used motor vehicle salesperson's license shall permit the licensee to engage in the activities of a used motor vehicle salesperson. Salespersons shall not be allowed to sell vehicles unless applications and fees are on file with the commission and the motor vehicle salesperson's or temporary salesperson's license has been issued. No person shall hold more than one salesperson's license at a time.

D. The schedule of license fees to be charged and received by the commission for the licenses issued hereunder shall be as follows:

(1) For each used motor vehicle dealer's license, a maximum of two hundred dollars.

(2) For a used motor vehicle dealer's license and for each place of business in addition to the principal place of business, one hundred dollars.

(3) For each used motor vehicle salesperson's license, no more than twenty-five dollars.

E. The license issued to each used motor vehicle dealer shall specify the location of the place of business. If the business location is changed, the commission shall be notified immediately of the change and the commission may endorse the change of location on the license without charge. The license of each dealer shall be posted in a conspicuous place in the dealer's place or places of business.

F. Every used motor vehicle salesperson shall have his license upon his person when engaged in his business and shall display same upon request. The name of the employer of the salesperson shall be stated on the license.

G.(1) Every applicant for licensure or renewal of a license as a used motor vehicle dealer shall show proof of responsibility by depositing with the commission a continuing bond in the amount of fifty thousand dollars. All bonds shall be with a commercial surety authorized to do business in the state and approved by the commission.

(2) The bond shall be for the license period and a new bond or a proper continuation certificate shall be delivered to the commission at the beginning of each license period; however, the aggregate liability of the surety in any calendar year shall in no event exceed fifty thousand dollars.

(3) The bond shall be made payable to the state of Louisiana through the commission for the following purposes:

(a) The proper disposition of taxes, license fees, tags, or certificates of title.

(b) Indemnification to any purchaser of a used motor vehicle who suffers any loss, damage, or expense due to the failure of the dealer to comply with any law relating to the registration of a used motor vehicle, the payment of sales tax, and obtaining a license tag or certificate of registration, including but not limited to the failure of the licensee to deliver a certificate of title or remit any tax, license, or registration fee.

(c) Restitution imposed by the commission in accordance with R.S. 32:785(B)(6).

(d) Unpaid penalties, fines, and hearing costs imposed by the commission not to exceed twenty-five thousand dollars.

(e) Attorney fees or court costs assessed pursuant to R.S. 32:783.

H. The bond required by this Section shall be maintained throughout the period of licensure. Should the bond be canceled for any reason, the dealer's license shall be revoked as of the date of cancellation unless a new bond is furnished prior to such date.

I. All used motor vehicle dealers are required to furnish and keep in force a garage liability policy which would provide coverage for all vehicles offered for sale or used in any other capacity in demonstrating or utilizing the streets and roadways in accordance with the financial responsibility laws of this state. Should the garage liability insurance coverage be allowed to lapse or be canceled for any reason, the dealer license shall be revoked as of the date of cancellation unless proof of a new policy of insurance is furnished prior to such date.

J. Applicants for licensure pursuant to this Part, other than a used motor vehicle dealer's license shall submit such evidence as the commission shall prescribe, documenting that either the applicant or his general manager, office manager, title clerk, or other responsible representative of the applicant has attended a four-hour educational seminar or has registered to attend such seminar within sixty days after issuance of the license.

Acts 2006, No. 440, §1; Acts 2008, No. 206, §1; Acts 2010, No. 987, §1; Acts 2016, No. 288, §1; Acts 2018, No. 435, §1, eff. May 23, 2018.



**RS 32:792**

§792. Denial, revocation, or suspension of license; grounds; unauthorized acts

A. Except as otherwise provided in this Section, the commission may deny an application for a license issued pursuant to the provisions of this Chapter for any of the following reasons:

(1) On satisfactory proof of unfitness of the applicant under the standards established by this Part or in rules or regulations adopted and promulgated by the commission.

(2) Being convicted of a felony crime.

(3) Any material false statement made by the applicant on any application for licensure under the provisions of this Part.

(4) Where the applicant has, under a previous license, committed a violation of any law or rule or regulation adopted and promulgated by the commission.

(5) Where the applicant is an immediate family member of, the former employee of, or a former business associate of a dealer whose license was previously revoked or suspended by the commission, and the applicant intends to operate the same or substantially the same business as operated by the revoked licensee, or the revoked licensee will be participating in the business with the applicant. As used in this Paragraph, "immediate family" shall have the meaning ascribed in R.S. 42:1102(13).

B. The commission may revoke or suspend a license, issue a fine or penalty, or enjoin a used motor vehicle dealer, dealer in used parts or used accessories of motor vehicles, used motor vehicle auctioneer, or salesperson for any of the following conduct:

(1) A change of condition after the license has been granted resulting in failure to maintain the qualifications for licensure, including but not limited to:

(a) Failure to keep an established place of business.

(b) Failure to furnish or keep in force garage liability insurance on any vehicle, except for trailers, offered for sale and otherwise required under the financial responsibility laws of this state.

(c) Failure to furnish or keep in force any bond required under this Part.

(d) Repealed by Acts 2014, No. 423, §2.

(2) Committing a fraudulent act in selling, purchasing, or dealing in used motor vehicles or misrepresenting the terms and conditions of a sale, purchase, or contract for sale or purchase of a used motor vehicle or any interest including an option to purchase.

(3) Engaging in his business in such a manner as to cause injury to the public or those with whom he is dealing.

(4) Knowingly engaging in tampering with, adjusting, altering, changing, setting back, disconnecting, or failing to connect the odometer of any motor vehicle, or causing any of the foregoing to occur to an odometer of a used motor vehicle, so as to reflect a lower mileage than the true mileage driven by the used motor vehicle. The foregoing shall be applicable to any motor vehicle whether sold wholesale or retail or whether or not the foregoing occurred within or outside the state of Louisiana.

(5) Employing unlicensed salespersons or other unlicensed persons in connection with the sale of used motor vehicles.

(6) Not operating from the address shown on his license if this change has not been reported to the commission in either an application for an additional location, or not restricting the location of the display of motor vehicles exclusively to the address shown on his license, except pursuant to a permit for an approved off-site display.

(7) Parking vehicles on any public roadway or right-of-way for the purpose of displaying vehicles for sale.

(8) Failing to deliver any certificate of title to a consumer within the time limitations prescribed in R.S. 32:705.

(9) Failing to submit any monthly sales report to Motor Vehicle Audit by the twentieth day of the following month.

(10) Failing to remit sales tax where the tax has been collected by the dealer.

(11) Leaving the certificate of title open or unassigned to the dealer.

(12) Issuing temporary license plates or temporary dealer's plates in violation of the law.

(13) Failing to maintain records for a period of up to three years.

(14) Repossessing a vehicle in any manner other than what is allowed by law.

(15) Requiring a consumer to sign and execute a voluntary surrender or other similar document at the time of the sale of a used motor vehicle.

(16) Violating any provision of this Chapter, any rule or regulation adopted by the commission, or any provision of law not administered by the Louisiana Motor Vehicle Commission, relating to a used motor vehicle transaction between a used motor vehicle dealer and a consumer.

(17) Use of false, misleading, or unsubstantiated advertising in connection with his business. For the purpose of this Paragraph, false, misleading, or unsubstantiated advertising in connection with the sale of a used motor vehicle shall include but not be limited to the following:

(a) Making any unsubstantiated claim regarding the dealership, such as being the "largest" or "biggest" dealer, or being the "number one dealer" in an area.

(b) Advertising that notes will not have to be paid by the customer for a certain period of time, unless the dealer can substantiate the delay in payment and unless the delay is offered to all customers without restriction or limitation.

(c) Advertising a loan interest rate without including all restrictions or limitations in the same size lettering.

(d) Advertising guaranteed credit approval without including all restrictions or limitations and any required credit rating in the same size lettering.

(e) Advertising a monthly note without restriction or limitation and without reference to an approved credit rating in the same size lettering.

(f) Advertising a guaranteed amount for trade-ins.

(g) Advertising a price other than the full cash price for which the vehicle will be sold, except for tax, title, and license, which must be referenced.

(h) Advertising a price without providing a complete and accurate description of the vehicle, including make, model, year, and any identification and serial number of the vehicle.

(i) Performing a "bait and switch" in which the dealer does not have the vehicle advertised for sale and has not had the vehicle within a reasonable time from the advertisement.

(j) Use of the words "certified", "certification", or other similar terms without having proof of a certification process approved by the commission.

(k) Advertising a down payment without including all restrictions or limitations in the same size lettering.

(18) Failing to comply with R.S. 32:705.

(19) Selling a used motor vehicle either with a waiver of warranties or "as is" without completing and providing to the purchaser a buyers guide if required by the Federal Trade Commission.

C. Repealed by Acts 2015, No. 119, §2.

D. The commission shall not deny an application for a used motor vehicle dealership based upon consideration of an existing or anticipated economic or competitive effect on other licenses in the surrounding community or territory.

E. In the performance of its duties under this Section, the commission shall have the authority to obtain from the Department of Public Safety and Corrections and other governmental agencies information relating to the criminal records of applicants for licenses under this Part.

Acts 2006, No. 440, §1; Acts 2007, No. 446, §1; Acts 2010, No. 987, §1; Acts 2012, No. 136, §1; Acts 2013, No. 204, §1; Acts 2014, No. 423, §§1, 2; Acts 2015, No. 119, §§1, 2; Acts 2016, No. 288, §1; Acts 2018, No. 435, §1, eff. May 23, 2018.

**RS 32:793****§793. Rent with option-to-purchase program****A. As used in this Section:**

(1) "Consummation" means the time a renter becomes contractually obligated on a vehicle rental purchase agreement.

(2) "Default" means the failure of a rental consumer to bring the rental account current within five days after the rental payment is due or the failure of the rental consumer to maintain minimum insurance required pursuant to a rental purchase agreement.

(3) "Processing fee" means those administrative fees that a rental dealer may charge to a rental consumer to initiate a rental purchase agreement, however designated.

(4) "Rental consumer" means a natural person who rents with an option-to-purchase a used motor vehicle under a vehicle rent with option-to-purchase agreement.

(5) "Rental purchase agreement" means a vehicle rent with option-to-purchase agreement for the rent of a used motor vehicle by a rental dealer in favor of a rental consumer, for personal, family, or household purposes for a period of not less than twelve months.

(6) "Rent-to-own dealer" means a used motor vehicle dealer who rents used motor vehicles under a rental purchase agreement.

**B. All rental purchase agreements are required:**

(1) To be made in clear and conspicuous language.

(2) To be in writing, a copy of which shall be delivered to the rental consumer.

(3) To have a condition report which sets forth in detail the physical condition and appearance of the vehicle prior to rental which shall be completed and signed by both the rental consumer and an authorized representative of the rental dealer and promptly delivered to the rental consumer.

(4) To have provisions substantially equivalent to the following:

(a) A provision indicating the description of the vehicle rented, particularly to the year, make, model, vehicle identification number, color, and odometer reading.

(b) A provision itemizing all costs relative to detail, delivery, or destination of the vehicle, which shall not exceed the sum of one hundred fifty dollars.

(c) An itemization of the processing fee charged by the rental dealer, if any, which shall not exceed the sum of one hundred fifty dollars.

(d) A provision indicating the amount of the security deposit required by the rental dealer and the conditions under which the said security deposit shall be refundable or nonrefundable; however, no security deposit shall exceed the rental dealer's documented cost of the vehicle.

(e) A provision that the rental dealer cannot add repair costs to the rental purchase agreement. Further, that the rental dealer shall warrant the power train of the motor vehicle for any defects which existed at the time of sale for a period of thirty days or one thousand miles, whichever is the lesser.

(f) A provision offering to the rental consumer the right to secure a warranty, if one is available, for the used motor vehicle and the price of such warranty, and the cost of any deductible under the warranty.

(g) A provision setting the total amount of payments due, the number of total periodic payments, and the amount of each such periodic payment.

(h) A provision indicating whether the title transfer and licensing fees are included in the payments charged at consummation by the rental dealer or are to be considered additional charges.

(i) A provision indicating whether a late payment is due from the rental consumer after a certain date selected for periodic payment, the amount of which payment shall not exceed the sum of fifty dollars or ten percent of the monthly payment price, whichever is less.

(j) A provision indicating whether a reinstatement fee shall be required in the event that the rental consumer fails to make timely rental payments and desires to reinstate the rental purchase agreement, which reinstatement fee shall not exceed the sum of fifty dollars plus any legitimate recovery fees or expenses.

(k) A provision indicating whether the rental consumer is liable for loss or damage to the rental property and, if so, the maximum amount for which the rental consumer may be liable.

(l) A provision containing the rights of the rental consumer to terminate the rental purchase agreement and the consequences of such termination, if any.

(m) A provision regarding the maintenance and repair of the rental during the rental term and whether the rental consumer is responsible for such repairs absent the purchase of a warranty.

(n) A provision indicating whether the rental consumer is required to secure automobile liability insurance from a licensed insurance agent in the state of Louisiana, and the minimum limits required by the rental dealer for both bodily injury and property damage, which in any event shall not be less than minimum limits required by state law.

(o) A provision that when a rental consumer is in default on his rental purchase agreement, the rental dealer will mail a notice of default to the rental consumer, provided there is proof of mailing giving the consumer five days to bring the account current.

(p) A provision that when the rental consumer returns the vehicle that the dealer shall do a condition report at the time of the vehicle's return which sets forth the physical condition and appearance of the vehicle and which shall be completed and signed by an authorized representative of the rental dealer and the rental consumer and promptly delivered to the rental consumer.

C. A rental purchase agreement may not contain a provision:

(1) Requiring a confession of judgment.

(2) Authorizing a rental dealer or an agent of the rental dealer to commit a breach of the peace in the repossession of rental property or to take repossession of the rental property in any manner other than what is permitted in R.S. 14:220.

D. Every rental dealer shall maintain a contingent automobile liability policy of insurance with minimum limits of one hundred thousand dollars per occurrence, three hundred thousand dollars aggregate, and fifty thousand dollars in property damage. It shall not be sufficient for any rental dealer to share in a policy of insurance, which could, under any circumstance, create a limit of less than that set forth herein. Such policy may be surplus lines insurance as defined in R.S. 22:46.

E. A used motor vehicle dealer shall not rent with an option to purchase a used motor vehicle that has a recorded lien on file. The lien shall be removed through the office of motor vehicles prior to placing the used motor vehicle in the rental program. A used motor vehicle dealer shall only rent with an option-to-purchase vehicle which shall be properly titled in the name of the used motor vehicle dealer.

Acts 2006, No. 440, §1; Acts 2012, No. 136, §1; Acts 2014, No. 430, §1.

**RS 32:794****§794. Wholesale motor vehicle auctions; unlawful acts**

A. It shall be unlawful and constitute a violation of this Chapter for any wholesale motor vehicle auction to:

(1) Fail to comply with the licensing requirements of this Chapter.

(2) Fail to comply with any provision of this Chapter, any provision relating to the proper disposition of license tags or registrations, transfers of title, or payment of sales taxes in connection with the purchase or sale of any new or used motor vehicle, or with any rule or regulation adopted and promulgated by the commission pursuant to the authority vested in it by this Chapter.

(3) Permit any person other than a licensed dealer or a person who holds a current authorization to bid for a licensed dealer, to bid, offer to bid, participate in the bid process, purchase, or offer to purchase a used motor vehicle placed up for bid at the auction.

(4) Accept cash for a sale from anyone other than a licensed dealer or his agent.

(5) Permit any person other than a mechanic or technical expert to accompany a licensed dealer to inspect used motor vehicles prior to the vehicle being placed up for bid at the auction.

(6) Fail to disclose that a sale took place off the block or out of the auction ring by providing red-stamped verification on the auction bill of sale or invoice, with the lettering on the stamp to be no less than half-inch print size.

(7) Fail to implement, within six months, following the effective date of this Section, an audio video recording system which will properly verify sales occurring in the lanes at the auction and fail to maintain those video recordings for at least thirty days following the sale.

(8) Fail to use an industry-recognized damage classification system for all vehicles sold at auction.

(9) Engage in fraudulent activity in the auction process.

B. Any violation of this Section shall constitute grounds for suspension, revocation, or refusal to issue or renew any license or permit issued by the commission.

C. Any licensee who violates any of the provisions of this Section may be subject to an injunction under R.S. 32:786 and fines and penalties provided in R.S. 32:788.

Acts 2010, No. 987, §1; Acts 2013, No. 204, §1.

**RS 32:795**

§795. Educational seminars; authority; initial license application seminar; renewal application seminar; exceptions

A. The commission has authority to do all of the following:

(1) Require both initial applicants and licensees seeking a renewal of their licenses, pursuant to R.S. 32:791, to attend educational seminars.

(2) Promulgate and adopt any rule for establishing educational seminar curriculum, requiring certain materials to be used, employing any person, and incurring any expense necessary to administer the seminars.

(3) Require seminar attendees to complete a test comprised of ten questions approved by the commission and to obtain a minimum score of seventy percent in order to receive credit for satisfactory completion of the seminar.

(4) Require that an initial license application seminar shall not exceed six hours in length and require that a renewal application seminar shall not exceed four hours in length.

(5) Approve and create a uniform certificate to be issued upon satisfactory completion of an educational seminar.

B. Each initial license application shall be accompanied by a certificate issued by the commission, as described in Subsection D of this Section, documenting that a minimum of one owner, partner, officer, or local dealership manager of the dealer applicant has completed an educational seminar. For each initial license application seminar, the seminar shall include materials from the Department of Public Safety and Corrections, office of motor vehicles, the Department of Revenue, and any other information the commission deems necessary to educate attendees and their employees regarding compliance with the law.

C. Each licensee seeking to renew his license shall certify that the owner, partner, officer, or local dealership manager of the dealer has completed an educational seminar prior to filing the renewal application with the commission. Any renewal application and seminar certification shall be completed during the license period.

D.(1) The commission may approve any educational institution, private vocational school, correspondence school, or trade association that meets its requirements to conduct educational seminars as required by this Section.

(2) Any educational institution, private vocational school, correspondence school, or trade association approved pursuant to Paragraph (1) of this Subsection shall be reapproved by the commission every two years.

(3) Any educational institution, private vocational school, correspondence school, or trade association administering an educational seminar shall issue the uniform certificate of completion approved by the commission as required by Subsection A of this Section upon an attendee's satisfactory completion of the seminar.

E. Failure to satisfactorily complete an educational seminar as required by this Section is considered a violation of this Part.

F. Notwithstanding any other provision of this Section, this Section shall not apply to any licensee who does not sell or rent used motor vehicles to consumers.

Acts 2018, No. 435, §1, eff. May 23, 2018.

**RS 32:796****§796. Deposit and down payment disclosure and delivery of vehicle pending the sale**

A. In every transaction between a used motor vehicle dealer and a customer in which the customer provides a deposit on a used motor vehicle, the used motor vehicle dealer is required to provide a statement that the deposit given is on an agreement to purchase, and not an actual sale. The agreement shall clearly state that no transaction has actually occurred, that no sales documents have been completed, and that the deposit is merely intended as a hold on a vehicle.

B. In every transaction between a used motor vehicle dealer and a customer in which the customer provides a down payment for the purchase of a used motor vehicle, the used motor vehicle dealer is required to provide, either on the bill of sale, or by separate agreement, a statement that the sale is conditioned upon certain identifiable events, such as financing or obtaining state-mandated compulsory automobile insurance.

C. In every transaction between a used motor vehicle dealer and a customer in which the customer provides either a down payment or a deposit for the purchase of a used motor vehicle, the used motor vehicle dealer shall complete a disclosure statement containing the terms and conditions of the transaction, including but not limited to the following:

(1) The amount of the deposit or down payment.

(2) Whether the money given is either a deposit or down payment.

(3) Terms and conditions for return or forfeiture of the customer's deposit or down payment.

(4) A time limit in which to complete the transaction not to exceed twenty days.

(5) A complete description of the motor vehicle to be sold including the make, model, year, and any identification and serial numbers.

(6) The price of the vehicle and a description of the vehicle including the make, model, year, identification, and serial number and its condition.

(7) The amount of the trade-in allowance and a description of the trade-in vehicle including the make, model, year, identification, and serial number and its condition.

D. If the dealer allows the customer to take delivery on a vehicle which is the subject of either a deposit or a down payment, a pre-delivery sale disclosure statement from the dealer and the customer shall include the following:

(1) A condition report which clearly identifies any noticeable damage to the vehicle before it is released to the customer.

(2) A statement that if the dealer withdraws from the agreement to purchase, the customer will be responsible only for damages beyond normal wear and tear occurring during the customer's use of the vehicle, the amount of which may be deducted from the deposit or down payment.

(3) A statement that if the customer withdraws from the agreement to purchase, the customer shall be responsible not only for damages occurring during the customer's use of the vehicle but also for usage of the vehicle at a day rate not to exceed twenty-five dollars per day and thirty-five cents per mile, which may be deducted from the deposit or down payment. A customer shall be considered as having withdrawn from the agreement if the customer intentionally provided false or fraudulent information to the dealer in connection with the transaction.

(4) A statement that if the customer either withdraws from the agreement to purchase or fails to return the vehicle at the expiration of the term of the agreement, the dealer may seek repossession of the vehicle by any lawful means.

(5) A statement that if the dealer withdraws from the agreement to purchase that the dealer must give written notice, by certified or registered mail, to the customer at least five days prior to taking repossession of the vehicle which may be done by any lawful means, and only upon return of the deposit in accordance with this Section.

E. It shall be unlawful and constitute a violation of this Chapter for any used motor vehicle dealer to fail to follow any of the provisions of this Section.

Acts 2014, No. 423, §1; Acts 2016, No. 288, §1.

## **RS 32:801**

### **PART III. DISMANTLERS AND PARTS RECYCLERS; MOTOR VEHICLE CRUSHERS; AND SCRAPPED MOTOR VEHICLE DEALERS**

#### **§801. Definition**

As used in this Part only:

"Motor vehicle" means any motor-driven vehicle required to be registered that was used, is used, or is designed to be used for the transporting of passengers or goods for public, private, commercial, or for-hire purposes.

Acts 2006, No. 440, §1; Acts 2018, No. 435, §1, eff. May 23, 2018.



**RS 32:802****§802. License required; application; fee; duration**

A. It shall be unlawful and shall constitute a misdemeanor for any person, firm, association, corporation, or trust to engage in business in whole or in part as, or serve in the capacity of, or act as an automotive dismantler and parts recycler, automotive dismantler and parts recycler salesperson, or motor vehicle crusher in this state without first obtaining a license therefor from the Louisiana Used Motor Vehicle Commission.

B. Any person, firm, association, corporation, or trust engaging, acting, or serving in more than one of the capacities or having more than one place where the business is carried on or conducted shall be required to obtain and hold a current license for each thereof in which he, it, or they shall engage.

C. Every person, firm, or corporation desiring to engage in the business of a dismantler and parts recycler, dismantler and parts recycler salesperson, or motor vehicle crusher shall apply in writing, on a form to be prescribed by the commission, which form shall contain:

- (1) The name of the applicant.
- (2) The street address of applicant's principal place of business.
- (3) The type of business organization of applicant.
- (4) The applicant's financial standing.
- (5) The applicant's business integrity.
- (6) Whether the applicant has an established place of business and is engaged in the pursuit, avocation, or business for which a license or licenses are applied.
- (7) Whether the applicant is able to properly conduct the business for which a license or licenses are applied.
- (8) Such additional information as may be required by the commission.

D. In addition to the items required to be submitted by applicants for licensure pursuant to this Section, applicants shall also submit such evidence as the commission shall prescribe, documenting that either the applicant or his general manager, office manager, title clerk, or other responsible representative of the applicant has attended a four-hour educational seminar or has registered to attend such seminar within sixty days after issuance of the license.

E. Every application for license as a dismantler and parts recycler, dismantler and parts recycler salesperson, or motor vehicle crusher shall be accompanied by the following fee:

- (1) A maximum of two hundred dollars for an applicant's established place of business.
- (2) One hundred dollars for each place of business in addition to the principal place of business.

F. All licenses issued under the provisions of this Part shall expire on the date indicated on the license and shall be nontransferable.

G. All applications for renewal of licenses hereunder shall be submitted on or before sixty days prior to the expiration date indicated on the license. If application has not been made for renewal of licenses, such licenses shall expire on the expiration date indicated on the license, and it shall be a violation of this Part for any person to represent himself and act thereafter in the capacity and business for which he was formerly licensed hereunder.

H. Any licensee who submits a renewal application after the expiration date of an existing license shall be subject to a late penalty of one hundred dollars and shall be presumed to be a renewal applicant.

I. Any licensee changing the name of the business, the business address, the ownership of the business, or opening any additional place of business shall notify the commission within ten days of such change or be in violation of this Part.

J. Any licensee ceasing to maintain its business shall surrender the license to the commission within ten days and any failure to do so shall constitute a misdemeanor criminal violation and also subject the licensee to civil penalties as defined in this Chapter.

K. The commission is authorized to adopt rules to implement the provisions of this Section.

Acts 2006, No. 440, §1; Acts 2009, No. 403, §1, eff. July 7, 2009; Acts 2010, No. 987, §1.

## **RS 32:803**

### **§803. Other licenses not required**

A licensed dismantler and parts recycler shall not be required to obtain a separate license as a used motor vehicle dealer, an automobile accessory dealer, an automobile garage or shop, or a storage garage or yard to engage in the business of a dismantler and parts recycler as set forth herein.

Acts 2006, No. 440, §1.

**RS 32:804****§804. Denial, revocation, or suspension of license; grounds; violations**

A. Except as otherwise provided in this Section, the commission may deny an application for a license or revoke, or suspend, or cancel a license after it has been granted for any of the following reasons:

(1) On satisfactory proof of unfitness of the applicant or the licensee, as the case may be, under the standards established by this Part.

(2) For fraudulent practices or any material misstatement made by an applicant in any application for license under the provisions of this Part.

(3) For any willful failure to comply with any provisions of this Part, any provision relating to the proper disposition of certificates of title or permits to dismantle in connection with the purchase or sale of any motor vehicle, or with any rule or regulation adopted and promulgated by the commission under authority vested in it by this Part.

(4) Change of condition after license is granted resulting in failure to maintain the qualifications for licensure.

(5) Continued or flagrant violation of any of the rules or regulations of the commission.

(6) Being a dismantler and parts recycler, dismantler and parts recycler salesperson, or motor vehicle crusher who:

(a) Resorts to or uses any false or misleading advertising in connection with his business.

(b) Has committed any unlawful act which resulted in the revocation of any similar license in another state.

(c) Has been convicted of a crime involving moral turpitude.

(d) Has committed a fraudulent act in selling, purchasing, or otherwise dealing in motor vehicles or motor vehicle parts, or has misrepresented the terms and conditions of a sale, purchase, or contract for sale or purchase of used motor vehicle parts, motor vehicles, or any interest therein including an option to purchase such motor vehicles.

(e) Has engaged in his business under a past or present license issued pursuant to this Part or in any other course of conduct in such a manner as to cause injury to the public or to those with whom he is dealing.

(f) Has failed to meet or maintain the conditions and requirements necessary to qualify for the issuance of a license.

(g) Has failed or refused to furnish and keep in force any bond required under this Part.

(h) Has knowingly engaged in tampering with, adjusting, altering, changing, setting back, disconnecting, or failing to connect the odometer of any motor vehicle, or causing any of the foregoing to occur in an odometer of a motor vehicle, so as to reflect a lower mileage than the true mileage driven by the motor vehicle. The foregoing shall be applicable to any motor vehicle whether sold wholesale or retail or whether or not the foregoing occurred within or outside of the state of Louisiana.

(7) Being a dismantler and parts recycler or crusher who:

(a) Does not have an established place of business.

(b) Is not operating from the address shown on his license if this change has not been reported to the commission.

(c) Employs unlicensed salespersons or other unlicensed persons in connection with the sales of used motor vehicle parts.

B. The commission shall not deny an application for a license or revoke or suspend a license based upon consideration of an existing or anticipated economic or competitive effect on other licensees in the surrounding community or territory.

C. Each of the aforementioned grounds for suspension, revocation, cancellation, or denial of issuance or renewal of license shall also constitute a violation of this Part, unless the person involved has been tried and acquitted of the offense constituting such grounds.

D. The suspension, revocation, cancellation, or refusal to issue or renew a license or the imposition of any other penalty by the commission shall be in addition to any penalty which might be imposed upon any licensee upon a conviction at law for any violation of this Part.

E. In the performance of its duties under this Section the commission shall have the authority to obtain from the Department of Public Safety and Corrections and other governmental agencies information relating to the criminal records of applicants for licensure under this Part.

Acts 2006, No. 440, §1.

**RS 32:805****§805. Requirement to keep records**

A. Every used motor vehicle dealer, dismantler and parts recycler, motor vehicle crusher, and scrap metal processor shall keep a register of all purchases and sales of motor vehicles for three years from the date of purchase or sale indicating the make, model, year, body style, vehicle identification number, odometer reading, and name and address of the purchaser and sellers, provided that any person, firm, or corporation purchasing a motor vehicle from a licensee of this commission is exempted from the requirement of keeping records on such purchases as are required in this Section. Scrap metal processors shall provide the information concerning the vehicle purchased, as required in this Section, only to the extent the information is readily available or ascertainable from the motor vehicle itself, as determined by the scrap metal processor.

B. Such registers and any vehicles or parts of vehicles still in the possession of the used motor vehicle dealer or dismantler and parts recycler, motor vehicle crusher, and scrap metal processor shall be made available for inspection to identified representatives of the commission and to identified law enforcement officers of the state, parish, and municipality during reasonable business hours on business days.

Acts 2006, No. 440, §1.

**RS 32:807****§807. Transfers of scrapped motor vehicles**

A. Unless transferred by a dismantler and parts recycler or motor vehicle crusher licensed by this commission, all transfers of motor vehicles shall be accompanied by the delivery of possession of the certificate of title, a permit to sell, or the permit to dismantle the motor vehicle, as required under R.S. 32:716 or 717, whichever is applicable, by the transferor to the transferee thereof.

B. No motor vehicle crusher or scrap metal processor acquiring a motor vehicle from any person, firm, or corporation who is not licensed under the provisions of this Part as a dismantler and parts recycler or as a motor vehicle crusher shall crush, compact, demolish, shred, or otherwise recycle for scrap such motor vehicle until after applying with the Department of Public Safety and Corrections, office of motor vehicles, for a permit to dismantle the motor vehicle for scrap in accordance with the applicable provisions and procedures set forth in R.S. 32:716 or 717, unless a permit to dismantle or a permit to sell such motor vehicle has previously been issued to the seller and transferred to the purchaser of the motor vehicle.

C. A scrap metal processor, upon receiving a copy of the license from a used motor vehicle dealer, dismantler and parts recycler, or motor vehicle crusher, shall be authorized to rely on the validity of said license for the term of said license unless and until the scrap metal processor receives actual written notice from the commission that said license has been revoked, suspended, or canceled.

Acts 2006, No. 440, §1.

## **RS 32:806**

§806. Transfer of motor vehicle certificate of title to or from a dismantler and parts recycler

In all transfers of motor vehicles at wholesale as authorized herein, a dismantler and parts recycler, duly licensed hereunder, shall have the authority to transfer the certificates of title to such motor vehicles as a dealer under the Louisiana Certificate of Title Law.

Acts 2006, No. 440, §1.

**RS 32:808****§808. Salvage pools; record keepers**

A.(1) The owner, manager, employee, or person in charge of a salvage pool or salvage disposal sale shall keep a register of all sales of motor vehicles for three years from the date of sale, showing the make, model, year, body style, vehicle identification number, odometer reading, and the name and address of the seller and buyer. The register shall be made available when requested by the commission within a reasonable period of time.

(2) The register shall be made available for inspection by identified law enforcement officers of the state, parish, or municipality or agents of the commission at the salvage pool or salvage disposal sale business location during regular business hours on business days.

B. In the event a bid card is not required in order to purchase a vehicle, a transaction fee of five dollars shall be collected and remitted monthly, electronically or otherwise, and transmitted to the commission by the owner or operator of the salvage pool in connection with the sale of each vehicle.

Acts 2006, No. 440, §1; Acts 2007, No. 257, §§1 and 2; Acts 2007, No. 446, §1; Acts 2010, No. 861, §14; Acts 2018, No. 533, §1.