

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

§781. Definitions

As used in this Chapter:

(1) "Broker" means any used motor vehicle dealer who, for a fee or commission, arranges or offers to arrange a transaction involving the sale, for purposes other than resale, of a used motor vehicle.

(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.

(5) "Motor vehicle" means any motor-driven car, van, or truck required to be registered pursuant to the Vehicle Registration License Tax Law, R.S. 47:451 et seq., which is used or is designed to be used, for the transporting of passengers or goods for public, private, commercial, or for-hire purposes and, including motor homes, motorcycles, all-terrain vehicles, recreational vehicles, travel trailers, boat trailers, ambulances, buses, fire trucks, conversion vehicles, wreckers, semitrailers, hearses, and marine products, as any of the terms are defined in R.S. 32:1252.

(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 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, firm, or corporation engaged in whole or in part in the business of obtaining scrap metal whose origin may have included abandoned, wrecked, or junked motor vehicles for scrap, shredding, or recycling as scrap metal.

(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, 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 which the individual has an ownership interest in or is employed by. 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 or recreational product, including those engaged in 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 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.

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RS 32:782

§782. Jurisdiction and authority of commission

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.

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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) Requiring all dealer sales to have a condition of sale, such as warranty disclaimer, implied or written warranty, or a service contract. If a sale of a used motor vehicle is "as-is" and with a waiver of all warranties, the bill of sale shall include a notice which clearly and unambiguously states that the terms of the sale are "as-is" and with a waiver of all warranties, including any claim for redhibition or reduction of or return of the purchase price. The customer shall acknowledge the terms of the sale. An acknowledgment of the terms of the sale via acceptance of an electronic notice at any time prior to or as part of the transaction shall constitute compliance with this Section. If a used motor vehicle dealer complies with the provisions of the Section, the purchaser shall not be entitled to a return of the purchase price, a reduction in the purchase price, or a repair of the vehicle without payment of the cost of the repair.

(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) Serving in the capacity of a receivership to take possession of certificates of title from a used motor vehicle dealer who has failed or refused to provide a certificate of title to his customer and to further distribute those titles to the rightful owners pursuant to R.S. 32:705.

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

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.

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RS 32:784

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

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

- (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) Rental dealer as defined in R.S. 32:793(A)(5).

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

B. Any motor vehicle dealer, not licensed under the provisions of Chapter 6 of this Title, who rents on a daily basis motor vehicles not of the current year or immediate prior year models, that have been titled previously to an ultimate purchaser, shall be subject to the regulation of the Louisiana Used Motor Vehicle Commission.

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.

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RS 32:785

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

A.(1) The commission, without prior notice, may deny any application for a license within sixty days after receipt thereof by written notice to the applicant stating the grounds for such denial. Upon request by the applicant whose application has been so denied, the commission shall set the time and place of a hearing to review such denial, the same to be heard with reasonable promptness. The commission may suspend or revoke a license only after a hearing of which the licensee affected shall be given at least fifteen days written notice specifying the grounds or reasons for revocation or suspension.

(2) Notices may be served as provided by law for the service of notices or by mailing a copy by certified mail to the last known residence or business address of such applicant or licensee. A copy of such notice shall be mailed by certified mail to the surety on the licensee's bond at the address of the surety given in the bond. The hearing on charges shall be at such time and place as the commission may prescribe and the aforementioned notice shall further specify the time and place. If the applicant or licensee is a used motor vehicle salesperson, the commission shall in like manner also notify the person, firm, association, corporation, limited liability company, or trust with whom the licensee is associated or in whose association he is about to enter.

(3)(a) The commission shall have the power to compel the production of records and papers bearing upon the issues to be presented for hearing.

(b) The commission shall have the power to subpoena and bring before it any person in this state, or take testimony of any such person by deposition, with the same fees and mileage and in the same manner as prescribed by law in judicial procedure before courts of the state in civil cases.

(c) Any party to the hearing shall have the right to the attendance of witnesses on his behalf upon designating to the commission the person or persons sought to be subpoenaed.

(4) If the commission determines that any applicant is not qualified to receive a license, a license shall not be granted to the applicant, and if the commission determines that any licensee is guilty of violation of any of the provisions of this Chapter, his or its license shall be suspended or revoked.

(5) Upon the determination by the commission that either the applicant is not qualified to receive a license or that a licensee is guilty of violating any of the provisions of this Chapter, then all costs of the hearing procedure shall be charged to and borne by the applicant or licensee so affected. These costs shall include but not be limited to attorney fees, court reporter fees, and mileage and per diem of commissioners, as well as other applicable and reasonable costs.

B.(1) The decision of the commission imposing a civil penalty, granting or refusing to grant an application for a license, or suspending or revoking a license shall not become final for a period of thirty days from the date thereof, during which time said applicant or licensee may appeal from the decision of the commission to the Nineteenth Judicial District Court by:

(a) Filing a petition in the court setting forth the facts relied upon and praying for a review of the decision.

(b) Mailing by certified mail a copy of the petition to the executive director of the commission or causing service of summons directed to the executive director of the commission to be issued, the petition to be mailed, or the summons to be issued within thirty days from the date of the decision of the commission from which appeal is taken.

(2) On appeal, the issue shall be heard in accordance with the Administrative Procedure Act. Nothing herein shall be construed to limit the authority of the court to grant relief as prescribed by R.S. 49:964. If the issues involved were first presented to the commission by a complaint filed with the commission, the complainant may appeal from the decision of the commission in the same manner as herein above prescribed.

C.(1) In holding and conducting hearings on complaints of violations of the provisions of this Chapter or hearings on the imposition of a civil penalty for any such violation, the commission shall

give the licensee or other person, firm, association, corporation, limited liability company, or trust alleged to have committed such violation at least fifteen days written notice specifying the violation charged.

(2) Notices may be served as provided by law for the service of notices or by mailing a copy by certified mail to the last known residence or business address of the party charged with such violation. Hearings shall be at such time and place as the commission may prescribe and the aforementioned notice shall specify the time and place thereof.

(3)(a) The commission shall have the power to compel the production of records and papers bearing upon the issues to be presented for hearing or any matter under investigation.

(b) The commission shall have the power to subpoena and bring before it any person in this state, or take testimony of any such person by deposition, with the same fees and mileage and in the same manner as prescribed by law in judicial procedure before courts of the state in civil cases.

(c) Any party to the hearing shall have the right to the attendance of witnesses in his behalf upon designating to the commission the person or persons sought to be subpoenaed.

(4) Upon the determination by the commission that the party charged is guilty of violating any of the provisions of this Chapter, then all costs of the hearing procedure shall be charged to and borne by the parties so affected. The costs shall include but not be limited to attorney fees, court reporter fees, and mileage and per diem of commissioners, as well as other applicable and reasonable costs.

D. When the licensed premises of a used motor vehicle dealer are abandoned, the dealer is no longer in business, there are no salespersons on the premises, all attempts to locate the dealer have been exhausted, the business telephone is disconnected, and the business sign has been removed, then the used motor vehicle dealer's license and the salesperson's licenses shall be revoked without a hearing if a request or application for 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 said license will be revoked for abandonment or violation of the provisions of this Part.

E. When a licensee is found in violation of any provision of this Chapter, relative to the Louisiana Used Motor Vehicle Commission, the licensee shall attend a four-hour educational seminar. The licensee who is found in violation of any provision of this Chapter shall complete the four-hour educational seminar within three months of the date the hearing decision becomes final.

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

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.

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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.

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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 one 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.

RS 32:791

PART II. USED MOTOR VEHICLE DEALERS

§791. Application for license; fee; 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)(i) On and after January 1, 2002, every application for the issuance of a used motor vehicle dealer's license that is submitted by an applicant who has not been licensed prior to January 1, 2003, shall be accompanied by, or supported by, such evidence as the commission shall prescribe, documenting that the dealership's general manager, office manager, title clerk, or other responsible representative of the dealership has attended a four-hour educational seminar or has registered to attend such seminar within sixty days after issuance of the license. The failure to attend the seminar shall be considered a violation of this Part. The educational seminar shall include but is not limited to the dealer requirements of this Part and the rules promulgated to implement, enforce, and administer this Part. Additionally, the seminar materials shall include a presentation of the requirements of the Louisiana Department of Public Safety and Corrections, office of motor vehicles, the Louisiana Department of Revenue, and such other information that will promote good business practices. Such educational seminar requirement shall not include written or oral exams.

(ii) The educational seminar shall be designed to develop and present educational programs that enhance the knowledge and competence of used motor vehicle dealers, their salespersons, and service personnel for the benefit of the public. The commission may approve any nonprofit corporation organized for the purpose of representing licensees of this commission to administer the educational seminar program and may approve any for-profit corporation, association, or other entity that is associated with the used car industry to conduct the seminar and certify completion of the required attendance. However, the commission shall investigate the qualifications of and shall have the authority to approve or deny approval of all entities that desire to conduct an educational seminar for motor vehicle dealer applicants and motor vehicle dealers.

(iii) The commission shall approve a uniform document used to certify completion of the seminar and all materials used in conducting the seminar. The commission shall approve all fees charged for materials and attendance to the seminar.

(iv) The commission shall promulgate rules to implement this educational seminar program.

(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 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 required herein:

(a) Twenty thousand dollars if the applicant sold less than one hundred and twenty vehicles

during the twelve month period preceding the licensure period.

(b) Thirty-five thousand dollars if the applicant sold one hundred and twenty or more vehicles during the twelve month period preceding the licensure period.

(c) All bonds shall be with a commercial surety authorized to do business in the state, which bond shall be approved by the commission, payable to the state of Louisiana through the commission, and shall be conditioned upon faithful observance of all laws regulated by the commission, including but not limited to laws relating to penalties and hearing costs and to the proper disposition of licenses, tags, or titles, and shall also indemnify any person who suffers any loss by reason of a failure to observe the provisions of the law relating to sales tax, licenses, tags, or titles and shall also indemnify any person who suffers any loss, damages, and expenses by reason of a failure to deliver title and for the proper disposition of all taxes, licenses, and registration fees.

(2) Such 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 one year shall in no event exceed the sum of such bond.

(3) Such bond shall be made payable to the state of Louisiana through the commission for the use, benefit, and indemnity of any persons who shall suffer any loss as a result of any violation of the conditions herein above contained and for the proper disposition of all taxes and registration fees.

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.

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 as 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 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.

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) Use of false, misleading, or unsubstantiated advertising in connection with his business.

(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) Engaging in a practice of failing to deliver certificates of title to a consumer within the time limitations prescribed in R.S. 32:705.

(9) Engaging in a practice of failing to submit monthly sales reports to Motor Vehicle Audit by the twentieth day of the following month.

(10) Engaging in a practice of failing to remit sales tax where the tax has been collected by the dealer.

(11) Engaging in a practice of leaving the certificate of title open or unassigned to the dealer.

(12) Engaging in a practice of 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 consumers 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 relating to the proper disposition of certificates of title or permits to dismantle in connection with the purchase or sale of any used motor vehicle.

C. The commission may revoke or suspend a license, issue a fine or penalty, or enjoin a used motor vehicle broker for any of the following conduct:

(1) Holding himself out to any person as a "broker", "purchasing company", "sales agent", or similar title, engaged in the business of a broker, or otherwise engaged in the solicitation or procurement of prospective purchasers for motor vehicles not titled in the name of and registered to the broker, unless the broker holds a valid used motor vehicle dealer's license and is in compliance with the terms of this Part.

(2) Acting in the capacity of or engaging in the business of a broker without a valid used motor vehicle dealer license issued as provided by this Part.

(3) Failing to execute a written brokering agreement and provide a completed copy to the following:

(a) A consumer entering into the broker agreement. The completed copy shall be provided prior to the consumer's signing an agreement for the purchase of the vehicle described in the brokering agreement, or prior to accepting one hundred dollars or more from the consumer, whichever comes first.

(b) The selling dealer. The completed copy shall be provided to the selling dealer entering into a purchase agreement with the consumer at the time of delivery.

(4) Accepting a purchase deposit from any consumer that exceeds five percent of the selling price of the vehicle described in the brokering agreement.

(5) Failing to refund any purchase money, including purchase deposits, upon demand by a consumer at any time prior to the consumer's signing a vehicle purchase agreement with a selling dealer of the vehicle described in the brokering agreement.

(6) Failing to cancel a brokering agreement and refund, upon demand, any money paid by a consumer, including any brokerage fee, under any of the following circumstances:

(a) When the final price of the brokered vehicle exceeds the purchase price listed in the brokering agreement.

(b) When the vehicle delivered is not as described in the brokering agreement.

(c) When the brokering agreement expires prior to the customer's being presented with a purchase agreement from a selling dealer arranged through the brokering dealer that contains a purchase price at or below the price listed in the brokering agreement.

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.

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 shall be placed, if available, through an insurance company licensed by and admitted in the state of Louisiana.

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.

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 salesperson 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.

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RS 32:795

§795. Deposits and down payments; disclosure; return

A. Every used motor vehicle dealer who accepts a deposit or a down payment from a consumer shall provide the consumer with a purchase agreement statement containing the following:

(1) A complete description of the motor vehicle subject to the purchase agreement, including the make, model, year, and vehicle identification number.

(2) The purchase price of the vehicle.

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

(4) A statement identifying whether the funds received by the dealer are for deposit or down payment.

(5) Any conditions necessary to complete the sale.

B. Every used motor vehicle dealer who accepts a deposit or down payment for a purchase agreement conditioned upon the consumer's ability to obtain financing of the remainder of the purchase price shall return the deposit or down payment upon a determination that the consumer does not qualify for financing. If no determination is made regarding financing within twenty days of the receipt of the deposit or down payment, the deposit or down payment shall be returned to the consumer at the end of the twenty-day period.

Acts 2012, No. 136, §1.

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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 every automobile, motor home, motorcycle, all-terrain vehicle, recreational vehicle trailer, boat trailer, semitrailer, truck, truck-tractor, and any other device which is self-propelled and drawn, in, upon, or by which any person or property is or may be transported or drawn either upon or off a public highway, except such as is moved by animal power, or is used exclusively upon stationary rails or tracks, or is an implement of husbandry.

Acts 2006, No. 440, §1.

RS 32:801

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CRUSHERS; AND SCRAPPED MOTOR VEHICLE DEALERS

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Acts 2006, No. 440, §1.

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.

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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.

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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.

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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.

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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 32:807

§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.

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RS 32:808

§808. Salvage pools; record keepers

A.(1) The owner, manager, 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.

(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.