**South Carolina General Assembly**

118th Session, 2009-2010

**S. 408**

**STATUS INFORMATION**

General Bill

Sponsors: Senators Jackson, Anderson, Nicholson and Lourie

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Introduced in the Senate on February 11, 2009

Currently residing in the Senate Committee on **Transportation**

Summary: Motor vehicle dealer

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

2/11/2009 Senate Introduced and read first time [SJ](file:///h:\SJ%20Archive\2009\02-11-09.docx)‑20

2/11/2009 Senate Referred to Committee on **Transportation** [SJ](file:///h:\SJ%20Archive\2009\02-11-09.docx)‑20

**VERSIONS OF THIS BILL**

[2/11/2009](file:///p:\pprever\2009-10\408_20090211.docx)

**A** **BILL**

TO AMEND SECTION 56‑15‑40, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO ACTS THAT ARE DEEMED UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE ACTS OR PRACTICES, SO AS TO PROVIDE THAT IT IS UNLAWFUL FOR A DEALER TO OFFER FOR SALE, ADVERTISE FOR SALE, OR TRANSFER THE TITLE OF A VEHICLE WITH A BALANCE DUE TO A SECURED PARTY BEFORE PAYING OFF THE ENTIRE BALANCE AND SUBMITTING A NOTARIZED RECEIPT TO THE DEPARTMENT OF MOTOR VEHICLES; AND TO AMEND SECTION 56‑15‑320, AS AMENDED, RELATING TO THE APPLICATION FOR A LICENSE TO BECOME A MOTOR VEHICLE WHOLESALER OR DEALER, SO AS TO INCREASE THE AMOUNT OF THE SURETY BOND AN APPLICANT SHALL FURNISH TO THE DEPARTMENT OF MOTOR VEHICLES.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 56‑15‑40(5) of the 1976 Code is amended to read:

“(5) It is a violation of paragraph (a) of Section 56‑15‑30 for a dealer to offer for sale, advertise for sale, or transfer the title of a used vehicle with a balance due to a secured party before paying off the entire balance and submitting a notarized receipt to the department.

(6) There is hereby created the Office of Administrator, within the Attorney General’s office, and he shall appoint such personnel within his office for the purpose of regulating this chapter. The Administrator shall have the power to investigate, issue cease and desist orders and injunctive relief on any valid abuse connected with the sale, rental or leasing of a new or used motor vehicle; provided, however, this power shall only apply after reasonable attempts by the consumer have been made with the seller, dealer, manufacturer or lessor of the motor vehicle to alleviate the complaint.”

SECTION 2. Section 56‑15‑320(B) of the 1976 Code, as last amended by Act 298 of 2006, is further amended to read:

“(B) Each applicant for licensure as a dealer or wholesaler shall furnish a surety bond in the penal amount of ~~thirty~~ two hundred fifty thousand dollars on a form prescribed by the director of the department. The bond must be given to the department and executed by the applicant, as principal, and by a corporate surety company authorized to do business in this State, as surety. The bond must be conditioned upon the applicant or licensee complying with the statutes applicable to the license and as indemnification for loss or damage suffered by an owner of a motor vehicle, or his legal representative, by reason of fraud practiced or fraudulent representation made in connection with the sale or transfer of a motor vehicle by a licensed dealer or wholesaler or the dealer’s or wholesaler’s agent acting for the dealer or wholesaler or within the scope of employment of the agent or loss or damage suffered by reason of the violation by the dealer or wholesaler or his agent of this chapter. An owner or his legal representative who suffers the loss or damage has a right of action against the dealer or wholesaler and against the dealer’s or wholesaler’s surety upon the bond and may recover damages as provided in this chapter. However, regardless of the number of years a bond remains in effect, the aggregate liability of the surety for claims is limited to thirty thousand dollars on each bond and to the amount of the actual loss incurred. The surety may terminate its liability under the bond by giving the department thirty days’ written notice of its intent to cancel the bond. The cancellation does not affect liability incurred or accrued before the cancellation.”

SECTION 3. This act takes effect upon approval by the Governor.

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