~~Indicates Matter Stricken~~

Indicates New Matter

AMENDED

April 10, 2019

**S. 509**

Introduced by Senator Grooms

S. Printed 4/10/19--S.

Read the first time February 13, 2019.

**A** **BILL**

TO AMEND ARTICLE 4, CHAPTER 15, TITLE 56 OF THE 1976 CODE, RELATING TO NONFRANCHISE AUTOMOBILE DEALER PRE-LICENSING, BY ADDING SECTION 56‑15‑415, TO PROVIDE THAT AN APPLICANT FOR AN INITIAL NONFRANCHISE AUTOMOBILE DEALER LICENSE MUST COMPLETE PRELICENSING EDUCATION COURSES BEFORE HE MAY BE ISSUED A LICENSE, TO PROVIDE THAT CERTAIN EDUCATIONAL REQUIREMENTS MUST BE SATISFIED BEFORE A LICENSE MAY BE RENEWED, AND TO PROVIDE THAT A PERSON WHO PROVIDES EDUCATION COURSES MUST BE AFFILIATED WITH A NATIONAL OR STATE INDUSTRY TRADE ASSOCIATION; AND TO AMEND SECTIONS 56‑15‑430, 56‑15‑440, AND 56‑15‑450 OF THE 1976 CODE, RELATING TO THE APPLICABILITY OF THE PROVISIONS THAT REGULATE NONFRANCHISE AUTOMOBILE DEALER PRELICENSING TO FRANCHISED AUTOMOBILE DEALERS, NONFRANCHISED AUTOMOBILE DEALERS OWNED AND OPERATED BY A FRANCHISED AUTOMOBILE DEALER, NONFRANCHISED AUTOMOBILE DEALERS WHOSE PRIMARY BUSINESS IS MOTOR VEHICLE SALVAGE, AND NONFRANCHISED AUTOMOBILE DEALERS WHOSE PRIMARY BUSINESS OBJECTIVE AND SUBSTANTIAL BUSINESS ACTIVITY IS IN THE RENTAL OF MOTOR VEHICLES, TO PROVIDE THAT CERTAIN EDUCATION REQUIREMENTS DO NOT APPLY TO THESE AUTOMOBILE DEALERS.

Amend Title To Conform

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

SECTION 1. Article 4, Chapter 15, Title 56 of the 1976 Code is amended by adding:

“Section 56‑15‑415. (A) An initial nonfranchise automobile dealer license entitles a licensee to carry on and conduct the business of a nonfranchise automobile dealer. A nonfranchise automobile dealer license expires every three years on the last day of the month of the year following its issuance.

(B) Renewal of a license must not be granted unless the licensee submits satisfactory proof of at least four hours of attendance at Department of Motor Vehicles‑approved continuing education prior to the renewal of a license.

(C) When a licensee makes application for renewal of a license, the licensee shall attach to the renewal application a certificate from a Department of Motor Vehicles‑approved provider of continuing education as proof of successful completion of the required training prior to a renewal of the license.

(D) All providers of continuing education must be approved by the Department of Motor Vehicles.”

SECTION 2. Section 56‑15‑430 of the 1976 Code is amended to read:

“Section 56‑15‑430. The provisions contained in Sections 56‑15‑410, 56‑15‑415, and 56‑15‑420 shall not apply to a franchised automobile dealer or a nonfranchised automobile dealer owned and operated by a franchised automobile dealer.”

SECTION 3. Section 56‑15‑440 of the 1976 Code is amended to read:

“Section 56‑15‑440. The provisions contained in Sections 56‑15‑410, 56‑15‑415, and 56‑15‑420 shall not apply to a nonfranchised automobile dealer whose primary business is salvage motor vehicles, regulated by Title 56.”

SECTION 4. Section 56‑15‑450 of the 1976 Code is amended to read:

“Section 56‑15‑450. The provisions contained in Sections 56‑15‑410, 56‑15‑415, and 56‑15‑420 shall not apply to a nonfranchised automobile dealer whose primary business objective and substantial business activity is the rental of motor vehicles, regulated by Title 56.”

SECTION 5. Section 56-15-310(A) of the 1976 Code is amended to read:

“Section 56-15-310. (A)(1) Before engaging in business as a dealer or wholesaler in this State, a person first must make application to the Department of Motor Vehicles for a license. Each license issued expires ~~twelve~~ thirty-six months from the month of issue (licensing period) and must be displayed prominently at the established place of business. The fee for the license is one hundred fifty dollars. The license applies to only one place of business of the applicant and is not transferable to another person or place of business except that a licensed dealer may exhibit and sell motor homes, as defined by Section 56‑15‑10, at fairs, recreational or sports shows, vacation shows, and other similar events or shows upon obtaining a temporary dealer’s license in the manner required by this section. No other exhibitions may be allowed, except as may be permitted by this section. Before exhibiting and selling motor homes at temporary locations as permitted above, the dealer shall first make application to the department for a license. To be eligible for a temporary license, a dealer shall hold a valid dealer’s license issued pursuant to this chapter. Every temporary dealer’s license issued is valid for a period not to exceed ten consecutive days and must be prominently displayed at the temporary place of business. No dealer may purchase more than six temporary licenses in any one licensing period. The fee for each temporary license issued is twenty dollars. A temporary license applies to only one dealer operating in a temporary location and is not transferable to any other dealer or location.

(2) Any person failing to secure a temporary license as required by this section is guilty of a misdemeanor and, upon conviction, must be punished in the same manner as he would be punished for failure to secure his regular dealer’s license.

(3) The provisions of this section may not be construed as allowing the sale of any type of motor vehicles other than motor homes at authorized temporary locations.

(4) Every owner with a stake in the business of ten percent or more must undergo a state criminal records check by the South Carolina Law Enforcement Division and a national criminal records check by the Federal Bureau of Investigations. The results of these criminal records checks must be reported to the department. The criminal background checks must be performed no more than ninety days prior to application or renewal submission to the Department of Motor Vehicles.”

SECTION 6. Section 56-15-350 of the 1976 Code is amended to read:

“Section 56-15-350. (A) Any license issued under this chapter may be denied, suspended, or revoked, if the applicant or licensee or an agency of the applicant or licensee acting for the applicant or licensee is determined by the Department of Motor Vehicles to have:

~~(a)~~(1) made a material misstatement in the application for the license;

~~(b)~~(2) violated any provision of this chapter;

~~(c)~~(3) been found by a court of competent jurisdiction to have committed any fraud connected with the sale or transfer of a motor vehicle;

~~(d)~~(4) employed fraudulent devices, methods, or practices in connection with meeting the requirements placed on dealers and wholesalers by the laws of this State;

~~(e)~~(5) been convicted of any violation of law involving the acquisition or transfer of a title to a motor vehicle or of any violation of law involving tampering with, altering, or removing motor vehicle identification numbers or markings;

~~(f)~~(6) been found by a court of competent jurisdiction to have violated any federal or state law regarding the disconnecting, resetting, altering, or other unlawful tampering with a motor vehicle odometer, including the provisions of 49 U.S.C. 32701‑32711 (Title 49, Subtitle VI, Part C, Chapter 327);

~~(g)~~(7) refused or failed to comply with the department’s reasonable requests to inspect or copy the records, books, and files of the dealer or wholesaler or failed to maintain records of each motor vehicle transaction as required by this chapter or by state and federal law pertaining to odometer records; ~~or~~

~~(h)~~(8) ~~Given~~ given, loaned, or sold a dealer license plate to any person or otherwise to have allowed the use of any dealer license plate in any way not authorized by Section 56‑3‑2320. Any dealer license plate issued to a dealer or wholesaler pursuant to Section 56‑3‑2320 which is determined by the department to be improperly displayed on any vehicle or in the possession of any unauthorized person is prima facie evidence of a violation of this section by the dealer or wholesaler to whom the license plate was originally issued; or

(9) been convicted of embezzlement by a state or federal court.

(B) The department shall notify the licensee or applicant in writing at the mailing address provided in his application of its intention to deny, suspend, or revoke his license at least twenty days in advance and shall inform the licensee of his right to request a contested case hearing with the Office of Motor Vehicle Hearings in accordance with the rules of procedure for the Administrative Law Court and pursuant to the Administrative Procedures Act of this State. A licensee desiring a hearing shall file a request in writing with the Office of Motor Vehicle Hearings within ten days of receiving notice of the proposed denial, suspension, or revocation of his dealer’s or wholesaler’s license.

(C) Upon a denial, suspension, or revocation of a license, the licensee shall immediately return to the department the license and all dealer license plates.”

SECTION 7. Section 56-14-30(A) of the 1976 Code is amended to read:

“Section 56-14-30. (A)(1) Before engaging in business as a recreational vehicle dealer in this State, a person first must make application to the Department of Motor Vehicles for a license. Each license issued expires on the last day of the month ~~twelve months~~ three years from the date of issue, the ‘licensing period’, and must be displayed prominently at the established place of business. The fee for the license is one hundred fifty dollars. The license applies to only one place of business of the applicant and is not transferable to another person or place of business.

(2) Every owner with a stake in the business of ten percent or more will submit to the department a state criminal records check by the South Carolina Law Enforcement Division and a national criminal records check by the Federal Bureau of Investigations performed no more than ninety days prior to application or renewal submission to the department.”

SECTION 8. Section 56-14-70 of the 1976 Code is amended to read:

“Section 56-14-70. (A) A license may be denied, suspended, or revoked if the applicant or licensee or an agent of the applicant or licensee is determined by the department to have:

~~(a)~~(1) made a material misstatement in the application for the license;

~~(b)~~(2) violated any provision of this chapter;

~~(c)~~(3) been found by a court of competent jurisdiction to have committed any fraud connected with the sale or transfer of a vehicle;

~~(d)~~(4) employed fraudulent devices, methods, or practices in connection with meeting the requirements placed on dealers by the laws of this State;

~~(e)~~(5) been convicted of any violation of law involving the acquisition or transfer of a title to a vehicle or of any violation of law involving tampering with, altering, or removing vehicle identification numbers or markings;

~~(f)~~(6) been found by a court of competent jurisdiction to have violated any federal or state law regarding the disconnecting, resetting, altering, or other unlawful tampering with a vehicle odometer, including the provisions of 49 U.S.C. 32701—32711 (Title 49, Subtitle VI, Part C, Chapter 327);

~~(g)~~(7) refused or failed to comply with the department’s reasonable requests to inspect or copy the records, books, and files of the dealer or failed to maintain records of each vehicle transaction as required by this chapter or by state and federal law pertaining to odometer records; ~~or~~

~~(h)~~(8) given, loaned, or sold a vehicle dealer license plate to any person or otherwise to have allowed the use of any dealer license plate in any way not authorized by Section 56‑3‑2320. Any dealer license plate issued to a dealer pursuant to Section 56‑3‑2320 which is determined by the department to be improperly displayed on any vehicle or in the possession of any unauthorized person is prima facie evidence of a violation of this section by the dealer to whom the license plate was originally issued; or

(9) been convicted of embezzlement by a state or federal court.

(B) The department shall notify the licensee or applicant in writing at the mailing address provided in his application of its intention to deny, suspend, or revoke his license at least twenty days in advance and shall inform the licensee of his right to request a contested case hearing with the Office of Motor Vehicle Hearings in accordance with the rules of procedure for the Administrative Law Court and pursuant to the Administrative Procedures Act of this State. A licensee desiring a hearing shall file a request in writing with the Office of Motor Vehicle Hearings within ten days of receiving notice of the proposed denial, suspension, or revocation of his dealer’s or wholesaler’s license.

(C) Upon a denial, suspension, or revocation of a license, the licensee shall immediately return to the department the license and all dealer license plates.”

SECTION 9. Section 56-16-140(A) of the 1976 Code is amended by adding a new item to read:

“(3) Every owner with a stake in the business of ten percent or more will submit to the Department of Motor Vehicles a state criminal records check by the South Carolina Law Enforcement Division and a national criminal records check by the Federal Bureau of Investigations performed no more than ninety days prior to application or renewal submission to the department.”

SECTION 10. Section 56-16-180 of the 1976 Code is amended to read:

“Section 56-16-180. (A) Any license issued under this chapter may be denied, suspended, or revoked if the applicant or licensee or an agency of the applicant or licensee acting for the applicant or licensee is determined by the Department of Motor Vehicles to have:

~~(a)~~(1) Made a material misstatement in the application for the license;

~~(b)~~(2) Violated any provision of this chapter;

~~(c)~~(3) Been found by a court or competent jurisdiction to have committed any fraud connected with the sale or transfer of a motorcycle;

~~(d)~~(4) Employed fraudulent devices, methods, or practices in connection with meeting the requirements placed on dealers and wholesalers by the laws of this State;

~~(e)~~(5) Been convicted of any violation of law involving the acquisition or transfer of a title to a motorcycle or of any violation of law involving tampering with, altering, or removing motorcycle identification numbers or markings;

~~(f)~~(6) Been found by a court of competent jurisdiction to have violated any federal or state law regarding the disconnecting, resetting, altering, or other unlawful tampering with a motorcycle odometer, including the provisions of 49 U.S.C. 32701‑32711 (Title 49, Subtitle VI, Part C, Chapter 327);

~~(g)~~(7) Refused or failed to comply with the Department’s reasonable requests to inspect or copy the records, books, and files of the dealer or wholesaler or failed to maintain records of each motorcycle transaction as required by this chapter or by state and federal law pertaining to odometer records; ~~or~~

~~(h)~~(8) Given, loaned, or sold a dealer license plate to any person or otherwise to have allowed the use of any dealer license plate in any way not authorized by Section 56‑3‑2320. Any dealer license plate issued to a dealer or wholesaler pursuant to Section 56‑3‑2320 which is determined by the department to be improperly displayed on any motorcycle or in the possession of any unauthorized person is prima facie evidence of a violation of this section by the dealer or wholesaler to whom the license plate was originally issued; or

(9) Been convicted of embezzlement by a state or federal court.

(B) The department shall notify the licensee or applicant in writing at the mailing address provided in his application of its intention to deny, suspend, or revoke his license at least twenty days in advance and shall provide the licensee an opportunity for a contested case hearing before the Office of Motor Vehicle Hearings pursuant to its rules of procedure and the Administrative Procedures Act of this State. A licensee desiring a hearing shall request it in writing within ten days of receiving notice of the proposed denial, suspension, or revocation of his dealer’s or wholesaler’s license.

(C) Upon the denial, suspension, or revocation of a license, the licensee shall immediately return to the department the license and all dealer license plates.”

SECTION 11. This act takes effect January 1, 2020.

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