**South Carolina General Assembly**

125th Session, 2023-2024

**S. 344**

**STATUS INFORMATION**

General Bill

Sponsors: Senator Massey

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Currently residing in the Senate

Summary: Auto Closing Fees

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 1/10/2023 Senate Introduced and read first time (Senate Journal‑page 200)

 1/10/2023 Senate Referred to Committee on **Transportation** (Senate Journal‑page 200)

 2/9/2023 Scrivener's error corrected

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**VERSIONS OF THIS BILL**

[01/10/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/344_20230110.docx)

[02/09/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/344_20230209.docx)

A bill

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 56‑9‑130 SO AS TO REQUIRE A MOTOR VEHICLE DEALER WHO CHARGES A CLOSING FEE TO PAY A REGISTRATION FEE AND REQUIRE THAT THE FEE MUST BE INCLUDED IN THE ADVERTISED PRICE OF THE MOTOR VEHICLE; TO DEFINE THE TERM CLOSING FEE; TO ESTABLISH THE PROCEDURES A DEALER SHALL UNDERTAKE BEFORE CHARGING A CLOSING FEE AND TO AUTHORIZE THE SECRETARY OF STATE TO DETERMINE WHETHER A CLOSING FEE IS REASONABLE; TO PROVIDE THAT A DEALER WHO COMPLIES WITH CERTAIN STATUTORY REQUIREMENTS MAY LAWFULLY CHARGE A CLOSING FEE, TO ALLOW A MOTOR VEHICLE DEALER TO ASSERT ANY DEFENSES PROVIDED TO A CREDITOR PURSUANT TO TITLE 37, AND TO ALLOW A PURCHASER INJURED OR DAMAGED BY THE ACTION OF A MOTOR VEHICLE DEALER IN VIOLATION OF CERTAIN STATUTORY REQUIREMENTS MAY ASSERT THE REMEDIES AVAILABLE PURSUANT TO TITLE 37; TO AUTHORIZE THE SECRETARY OF STATE TO ADMINISTER AND ENFORCE MOTOR VEHICLE DEALER CLOSING FEES, AND TO EXPRESS THE INTENT OF THE GENERAL ASSEMBLY, AND BY REPEALING SECTION 37‑2‑307 RELATING TO MOTOR VEHICLE SALES CONTRACTS CLOSING FEES.

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

SECTION 1. Chapter 9, Title 56 of the S.C. Code is amended by adding:

 Section 56‑9‑130. (A)(1) Every motor vehicle dealer charging closing fees on a motor vehicle sales contract shall pay a one time registration fee of ten dollars during each state fiscal year before January thirty first to the Department of Motor Vehicles. The department shall set the fee annually in an amount not to exceed twenty five dollars.

 (2) The closing fee must be included in the advertised price of the motor vehicle, disclosed on the sales contract, and displayed in a conspicuous location in the motor vehicle dealership.

 (B) A closing fee is defined as a fee charged for all administrative and financial work needed to transfer the motor vehicle to the consumer, person, or entity including, but not limited to, compliance with all state, federal, and lender requirements, preparation and retrieval of documents, protection of the private personal information of the consumer, records retention, and storage costs.

 (C)(1) Prior to charging a closing fee, a motor vehicle dealer shall provide written notice to the Department of Motor Vehicles of the maximum amount of a closing fee the dealer intends to charge on an annual basis. The department may review the amount of the closing fee for reasonableness using the criteria in item (3) if the maximum amount of the closing fee intended to be charged by a dealer in a vehicle transaction exceeds two hundred twenty five dollars per vehicle. The department shall not conduct a review of the amount of the closing fee for reasonableness when the maximum amount the dealer intends to charge in a vehicle transaction is not more than two hundred twenty five dollars per vehicle. If the department intends to conduct a formal review of a proposed closing fee, the department shall provide written notice to the motor vehicle dealer of the department's intention to review the proposed closing fee within thirty days of receiving the proposed closing fee notice. If the department does not provide a motor vehicle dealer with written notice of the department's intention to review the proposed closing fee within thirty days, the motor vehicle dealer is authorized to charge the proposed closing fee. If the department determines that a proposed closing fee is not reasonable, the department shall issue a written order detailing the department's findings. The department may require the fee to be reduced or require the motor vehicle dealer to submit a new fee for review. The dealer is at all times authorized to submit a new closing fee that is equal to or less than two hundred twenty five dollars per vehicle which is not subject to review. During the pendency of the review period, a motor vehicle dealer is authorized to charge a closing fee at an amount not to exceed the amount most recently on file and permitted to be charged by the department. If the department finds that a closing fee is not reasonable, the motor vehicle dealer may request a hearing in accordance with the Administrative Procedures Act.

 (2) If the maximum amount of the closing fee that the dealer intends to charge is not more than two hundred twenty five dollars per vehicle, the closing fee is deemed approved by the department and the dealer does meet and fulfill all reasonableness requirements and criteria in compliance with the law and this section.

 (3) In determining the reasonableness of a closing fee, the department shall allow the following items to be included in a reasonable closing fee:

 (a) all administrative expenses, costs, staff, supplies, materials, and financial work needed to transfer the motor vehicle to the consumer and to procure the closing of the motor vehicle transaction;

 (b) all costs for administrative expenses, costs, staff, supplies, and materials necessary by the dealer to comply with all state, federal, and lender requirements;

 (c) all costs for administrative costs, staff, and materials needed for the preparation and retrieval of documents;

 (d) all costs for administrative costs, staff, supplies, and materials necessary for the protection of the private personal information of the consumer; and

 (e) all costs for administrative costs, staff, supplies, and materials necessary for records retention and storage costs of such records.

 (D) Whether the vehicle transaction is a credit sale, consumer lease, or cash transaction:

 (1) notwithstanding another provision of law, a motor vehicle dealer who complies with this section and any regulation promulgated under it and who charges a closing fee is not engaging in any action which is arbitrary, in bad faith, unconscionable, an unfair or deceptive practice, or an unfair method of competition for purposes of Sections 56 15 30 and 56 15 40 with regard to the charging of a closing fee and may lawfully charge a closing fee;

 (2) a motor vehicle dealer may assert any defenses provided to a creditor pursuant to the provisions of this title; and

 (3) a purchaser injured or damaged by an action of a motor vehicle dealer in violation of this section or any regulation promulgated thereunder, may assert the remedies available pursuant to the provisions of this title.

 (E)(1) The Department of Motor Vehicles shall administer and enforce the subject of motor vehicle dealer closing fees including, but not limited to, this section. The department shall make and promulgate such rules and regulations relating to motor vehicle dealer closing fees to administer and enforce this section. The department shall have access to a motor vehicle dealer's books, accounts, and records to determine if the dealer is complying with the provisions of this section, and this financial information must be kept confidential and privileged from disclosure, except as provided by law.

 (2) If the department determines that a closing fee is not reasonable, the department shall issue a written order detailing the department's findings. The department may require the fee to be reduced or require the motor vehicle dealer to submit a new fee for review. If the department finds that a closing fee is not reasonable, the motor vehicle dealer may request a hearing in accordance with the Administrative Procedures Act.

 (F) It is the intent of the General Assembly to authorize a motor vehicle dealer to charge a closing fee in compliance with this section and to protect a motor vehicle dealer from civil liability for charging a closing fee if the fee is charged in compliance with this title and any Department of Motor Vehicles regulation or administrative interpretation. It is further the intent to protect consumers by the disclosure and notice provisions established in this section and with the remedies provided by this title.

SECTION 2. Section 37‑2‑307 of the S.C. Code is repealed.

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

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