
DEPARTMENT OF PUBLIC SAFETY (DPS)

- Restricts the issuance of Freemason license plates to persons who are members in good standing of the Grand Lodge of Free and Accepted Masons of Ohio.
- Modifies the provisions governing the sale of a used motor vehicle by a motor vehicle dealer and a used manufactured home or mobile home by a manufactured housing dealer when the dealer does not have a certificate of title to the vehicle or home in the dealer's name.
- Modifies the payments motor vehicle and manufactured housing dealers must make to the Attorney General for deposit into the Title Defect Recision Fund.
- Repeals a provision in the Motor Vehicle Dealers Law regarding a vehicle repair guarantee.
- Revises the application requirements for a new motor vehicle dealer's license and for a motor vehicle salesperson's license.
- Repeals an exception that permitted two or more motor vehicle dealers to sell manufactured or mobile homes in the same manufactured home park without having to agree to joint, several, and personal liability.
- Makes changes to the Motor Vehicle Dealers Law to conform with Am. Sub. H.B. 1 of the 128th General Assembly.
- Clarifies the relationship between a construction equipment auction license issued by the Registrar of Motor Vehicles and auction-related licenses issued by the Department of Agriculture.

Freemason license plates

(R.C. 4503.70)

The act restricts the issuance of existing Freemason license plates to persons who are members in good standing of the Grand Lodge of Free and Accepted Masons of Ohio and requires a person who applies for these license plates to present satisfactory evidence showing that the person is a member in good standing of the Grand Lodge.



Sale of a used motor vehicle, manufactured home, or mobile home when the dealer does not have a certificate of title in the dealer's name

(R.C. 4505.181)

The act modifies the certificate of title provisions governing the display, offering for sale, or sale of (1) a used motor vehicle by a motor vehicle dealer or person acting on behalf of such a dealer or (2) a used manufactured home or mobile home by a manufactured housing dealer or person acting on behalf of such a dealer when the dealer has not obtained a certificate of title for the used vehicle or home ("vehicle") in the dealer's name.

Bill of sale for the used vehicle or a power of attorney from the prior owner

The act requires the dealer to possess either a bill of sale for each used vehicle that will be displayed, offered for sale, or sold or a properly executed power of attorney or other related documents from the prior owner of the vehicle giving the dealer authority to have a certificate of title to the vehicle issued in the name of the dealer. Prior law required the dealer to possess both a bill of sale and a properly executed power of attorney or other related document from the prior vehicle owner.

Posting of a bond by a dealer

Under prior law, a dealer had to post with the Attorney General's office in favor of this state a bond of a surety company authorized to do business in this state, in an amount of at least \$25,000, that was used solely for the purpose of compensating retail purchasers of motor vehicles, manufactured homes, or mobile homes who suffered damages due to failure of the dealer to comply with these certificate of title provisions if (1) the Attorney General had paid a retail purchaser of the dealer under these provisions or (2) the dealer had been licensed as a dealer for less than three years. The act (1) applies the requirement of the posting of a bond if the Attorney General has paid a secured party (on behalf of the retail purchaser), not just a retail purchaser and (2) eliminates the requirement that a bond be posted in the case of a dealer who has been licensed as a dealer for less than three years. The act also provides that failure to post the required bond constitutes a deceptive act or practice in connection with a consumer transaction and is a violation of the Consumer Sales Practices Act.

Payment by a dealer to the Attorney General for deposit into the Title Defect Recision Fund

The act eliminates the provision of prior law that if the dealer had been a licensed dealer longer than the three-year period preceding the date of sale of the used vehicle and the Attorney General had not paid a retail purchaser of the dealer under these



certificate of title provisions within three years prior to that date, the dealer had to pay \$150 to the Attorney General for deposit into the Title Defect Recision Fund.

Circumstances under which the retail purchaser of a used vehicle may demand recision of the sale

Prior law provided that if a retail purchaser purchased a used vehicle for which the dealer did not have a certificate of title issued in the name of the dealer at the time of the sale (1) the retail purchaser had an unconditional right to rescind the transaction if any of four specified circumstances applied and (2) the dealer had an obligation to refund to the retail purchaser the full purchase price of the vehicle. "Full purchase price," as used in the act, means the contract price, including charges for dealer-installed options and accessories, all finance, credit insurance, and service contract charges incurred by the retail purchaser, all sales tax, license and registration fees, and the amount of any negative equity that was not already paid by the dealer to a third party to satisfy a lien, as reflected in the contract. The act (1) eliminates the power of the purchaser to rescind the transaction in favor of a right by the purchaser to demand that the dealer rescind the transaction, (2) eliminates the (unqualified) obligation of the dealer to refund to the retail purchaser the full purchase price of the vehicle, and (3) adds a fifth circumstance in which the transaction may be rescinded. The five specified circumstances are as follows:

(1) The dealer fails, on or before the 40th day following the date of the sale, to obtain a title in the name of the retail purchaser. (Continuing law.)

(2) The title for the vehicle indicates that it is a rebuilt salvage vehicle, and the fact that it is a rebuilt salvage vehicle was not disclosed to the retail purchaser in writing prior to the execution of the purchase agreement. (Continuing law.)

(3) The title for the vehicle indicates that the dealer has made an inaccurate odometer disclosure to the retail purchaser. (Continuing law.)

(4) The title for the vehicle indicates that it is a "buyback" vehicle (a vehicle that a motor vehicle dealer was required to buy back from the purchaser under the Nonconforming New Motor Vehicle Law, also known as the Lemon Law) and the fact that it is a "buyback" vehicle was not disclosed to the retail purchaser in the written purchase agreement. (New circumstance added by the act.)

(5) The motor vehicle is a used manufactured home or used mobile home that has been repossessed, but a certificate of title for the repossessed home has not yet been transferred by the repossessing party to the dealer on the date the retail purchaser purchases the used manufactured home or mobile home from the dealer, and the dealer fails to obtain a certificate of title on or before the 40th day after the dealer obtains the



certificate of title for the home from the repossessing party or the date on which an occupancy permit for the home is delivered to the purchaser by the appropriate legal authority, whichever occurs later. (Continuing law.)

Under the act, if circumstance (1) applies, a retail purchaser or the retail purchaser's representative must provide the dealer notice of the request for rescission. Prior law required the retail purchaser or the retail purchaser's representative to notify the dealer and afford the dealer the opportunity to comply with the dealer's obligation to refund the full purchase price of the vehicle. The act requires the notice of the request for rescission to occur not later than 60 days from the date the motor vehicle is titled in the name of the retail purchaser. The dealer must have the opportunity to comply with the dealer's obligation to refund the full purchase price of the motor vehicle. Reimbursement to the retail purchaser is limited to any money the retail purchaser actually paid and, in the case of a lender of the retail purchaser, the amount the lender paid to purchase the contract or finance the vehicle sale. If a vehicle was taken in trade as a down payment, the dealer is required to return the vehicle to the consumer unless the dealer remitted payment to a third party to satisfy a security interest. If the dealer remitted payment, the dealer must reimburse the purchaser the value of the vehicle, as evidenced by the bill of sale. These same provisions apply if circumstance (2), (3), or (4) applies, except that a retail purchaser or the retail purchaser's representative must provide notice to the dealer of a request for rescission not later than 180 days from the date the vehicle is titled in the name of the retail purchaser.

If circumstance (5) applies, the retail purchaser or the retail purchaser's representative is required to notify the dealer and afford the dealer the opportunity to comply with the dealer's obligation to rescind the manufactured home or mobile home transaction; no deadline is specified.

Failure of a retail purchaser to give the dealer timely notice of request for rescission

The act provides that if the retail purchaser does not deliver notice to the dealer within the applicable specified time period, the retail purchaser is not entitled to any recovery and does not have a cause of action under these provisions.

Application by a retail purchaser to the Attorney General for payment from the Title Defect Rescission Fund

Under prior law, if a retail purchaser notified a dealer of one or more of the specified circumstances and the dealer failed to refund to the retail purchaser the full purchase price of the vehicle or reach a satisfactory compromise with the retail purchaser within three business days of presentation of the retail purchaser's rescission claim, the retail purchaser could apply to the Attorney General for payment from the



Title Defect Recision Fund. No time limit for notification was prescribed. Under the act (1) notice to the dealer must be given by the retail purchaser within the applicable time period specified in the act (60 or 180 days from the date the vehicle is titled in the name of the retail purchaser) and (2) the dealer has seven days to rescind the transaction or reach a satisfactory compromise with the retail purchaser before the purchaser may apply to the Attorney General for payment from the Fund of the full purchase price to the retail purchaser.

Upon application by a retail purchaser for payment from the Fund, if the Attorney General is satisfied that one or more of the prescribed circumstances exist, the Attorney General must cause the full purchase price of the vehicle to be paid to the retail purchaser from the Fund. Corresponding to other provisions made by the act, the act requires also that notification must have been given to the dealer within the applicable time period. Additionally, reimbursement from the Fund is to include the cost of any additional temporary license placards but may not exceed that cost and the full purchase price of the vehicle. Prior law provided that reimbursement from the Fund was to be paid to the retail purchaser after delivery of the vehicle to the Attorney General; under the act, the Attorney General may require delivery of the used vehicle to the Attorney General prior to reimbursement from the Fund, which may be only one of the following:

(1) To the retail purchaser, any money the retail purchaser actually paid and, in the case of a lender of the retail purchaser, the amount the lender paid to purchase the contract or finance the sale of the vehicle;

(2) If the retail purchaser wishes to retain the vehicle, the Attorney General, in the Attorney General's sole discretion, may pay a lienholder of record or other holder of a secured interest so that title can be transferred to the retail purchaser free of encumbrances, other than a security interest granted by the retail purchaser at the time of vehicle purchase.

The Attorney General also may pay the cost of additional temporary license placards for the vehicle from the Fund.

Failure of a dealer to pay the holder of a secured interest on a trade-in vehicle

Under the act, if a dealer fails to submit payment to the holder of a secured interest on a trade-in vehicle as agreed to by the dealer and retail purchaser and none of the specified circumstances that can serve as the basis for recision apply, the retail purchaser may apply to the Attorney General for payment to the secured creditor from the Title Defect Recision Fund. The Attorney General must demand immediate payment from the dealer, and if payment has not been made or is not immediately



forthcoming, the Attorney General may cause an amount equal to that which the dealer agreed to pay to the secured creditor to be paid from the Fund, along with any additional interest and late fees resulting from the dealer's failure to pay the secured creditor in a timely manner.

Dealer assessments for the Title Defect Recision Fund

The act provides that if, at any time during any calendar year, the balance in the Title Defect Recision Fund is less than \$300,000, the Attorney General may assess all licensed motor vehicle dealers and manufactured housing dealers \$150 for deposit into the Fund until the balance in the Fund reaches \$300,000. A notice of assessment must be sent to each dealer at its licensed location.

This is in contrast to prior law, which provided that (1) all licensed motor vehicle dealers and manufactured housing dealers had to pay to the Attorney General for deposit into the Title Defect Recision Fund \$150 each year until the balance in the Fund was not less than \$300,000 and (2) all such dealers also had to pay to the Attorney General for deposit into the Fund that same amount during any year and subsequent years during which the balance in the Fund was less than \$300,000 until the balance in the Fund reached that amount.

Sources of money for the Title Defect Recision Fund

The act adds two references to sources of money for the Title Defect Recision Fund. One reference is to money collected when a motor vehicle dealer is issued a certificate of title; this source was enacted in Am. Sub. H.B. 114 of the 129th General Assembly, which was the Transportation Appropriations Act for that General Assembly. The other reference is to money collected from each applicant for an initial motor vehicle dealer's license or motor vehicle leasing dealer's license; this new requirement is contained in the act.

The act also provides that money in the Fund must be used not only for maintaining and administering the Fund and providing restitution to retail purchasers of motor vehicles who are unable to obtain a certificate of title from a motor vehicle dealer and so suffer damages, but also for providing other remedies to such retail purchasers.

Attorney fees

The act provides that nothing in these certificate of title provisions may be construed as providing for payment of attorney fees to the retail purchaser.



Vehicle repair guarantee repeal

(R.C. 4517.12)

The act repeals a provision in prior law governing motor vehicle dealers that permitted the Registrar of Motor Vehicles to require certain applicants for licensure to sell new motor vehicles to demonstrate that such applicants would provide each customer with a binding agreement ensuring that the customer has the right to have the vehicle repaired at a dealer who is licensed to sell the same line of vehicles.

Motor vehicle dealers license

(R.C. 4517.04)

The act requires a person applying for a new motor vehicle dealer's license to apply biennially instead of annually, as was required under prior law, for a license in each county where the person is doing business.

Motor vehicle salesperson license

(R.C. 4517.09)

The act requires a person applying for a motor vehicle salesperson's license to apply biennially instead of annually, as was required under prior law, for a license.

Motor vehicle dealer joint liability

(R.C. 4517.24)

The act repeals the exception under prior law that permitted two or more motor vehicle dealers to sell manufactured or mobile homes in the same manufactured home park without having to agree to joint, several, and personal liability.

Am. Sub. H.B. 1 of the 128th General Assembly conforming changes

(R.C. 4517.01, 4517.04, 4517.09, 4517.10, 4517.12, 4517.13, 4517.14, 4517.23, and 4517.44)

The act removes references to manufactured home brokers within the motor vehicle dealers law in order to conform with Am. Sub H.B. 1 of the 128th General Assembly, which transferred licensing of manufactured home dealers to the Manufactured Homes Commission.

Motor vehicle dealer and motor vehicle leasing dealer license fee

(R.C. 4517.10, 1345.52, and 4505.181)

The act requires each applicant for an initial motor vehicle dealer's license or motor vehicle leasing dealer's license to pay a separate fee "equal to the last assessment" required of motor vehicle dealers for purposes of the Title Defect Recision Fund and requires the Registrar of Motor Vehicles to deposit the separate fee into that fund. The Title Defect Recision Fund consists in part of money that motor vehicle dealers are required to pay to the Attorney General, dependent upon the balance in the fund; the payment is \$150. The fund is used solely to provide restitution to retail purchasers of motor vehicles who are unable to obtain a certificate of title from a dealer and so suffer damages.

Construction equipment auction license

(R.C. 4517.01 and 4517.02)

In regard to the recently created construction equipment auction license, the act clarifies that such a license is required only when a person is in the business of auctioning *both* large construction or transportation equipment *and also*, incidental to that business, motor vehicles. Additionally, the act specifies that the new construction equipment auction license does not in any way affect the conduct of auctions by any person holding an auction-related license issued by the Department of Agriculture who is acting in compliance with those licensing requirements.

Lastly, the act modifies the definition of a "construction equipment auctioneer" so that a person may engage in the business of auctioning large construction equipment if the person has not only a valid construction equipment auction license issued by the Registrar of Motor Vehicles but also a valid auction firm license issued by the Department of Agriculture, rather than a valid construction equipment auction license and an auctioneer's license as required under prior law.

