

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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SENATE BILL 649

Short Title: MV Dealer Disclosure of Certain Fees.

(Public)

Sponsors: Senators Hoyle, Plyler, Dalton, and Carter.

Referred to: Commerce.

March 22, 2001

A BILL TO BE ENTITLED

AN ACT TO REQUIRE CONSPICUOUS DISCLOSURE OF MOTOR VEHICLE
DEALER ADMINISTRATIVE FEES AND FINANCE YIELD CHARGES AND
TO INCREASE DEALER SURETY BOND PROTECTION.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 20 of the General Statutes is amended by adding a
new section to read:

"§ 20-101.1. Conspicuous disclosure of dealer administrative fees.

(a) No motor vehicle dealer may charge an administrative, origination,
documentary, procurement, or other similar administrative fee related to the sale or
lease of a motor vehicle, whether or not that fee relates to costs or charges which the
dealer is required to pay to third parties or is attributable to the dealer's internal
overhead or profit, unless the dealer complies with all of the following requirements:

(1) The dealer shall post a conspicuous notice in the sales or finance area
of the dealership at least 24 inches on each side informing customers
that a fee regulated by this section may or will be charged and the
amount of the fee.

(2) The fact that the dealer charges a fee regulated by this section and the
amount of the fee shall be disclosed whenever the dealer engages in
the price advertising of vehicles.

(3) The amount of a fee regulated by this section shall be separately
identified on the customer's buyer's order, purchase order, or bill of
sale.

(b) Nothing contained in this section or elsewhere under the law of this State
shall be deemed to prohibit a dealer from, in the dealer's discretion, deciding not to
charge an administrative, origination, documentary, procurement, or other similar
administrative fee or reducing the amount of the fee in certain cases, as the dealer may
deem appropriate.

1 (c) Notwithstanding the terms of any contract, franchise, novation, or agreement,
2 it shall be unlawful for any manufacturer, manufacturer branch, distributor, or
3 distributor branch to prevent, attempt to prevent, prohibit, coerce, or attempt to coerce,
4 any new motor vehicle dealer located in this State from charging any administrative,
5 origination, documentary, procurement, or other similar administrative fee related to the
6 sale or lease of a motor vehicle. It shall further be unlawful for any manufacturer,
7 manufacturer branch, distributor, or distributor branch, notwithstanding the terms of any
8 contract, franchise, novation, or agreement, to prevent or prohibit any new motor
9 vehicle dealer in this State from participating in any program relating to the sale of
10 motor vehicles or reduce the amount of compensation to be paid to any dealer in this
11 State, based upon the dealer's willingness to refrain from charging or reduce the amount
12 of any administrative, origination, documentary, procurement, or other similar
13 administrative fee related to the sale or lease of a motor vehicle."

14 **SECTION 2.** Chapter 20 of the General Statutes is amended by adding a
15 new section to read:

16 **"§ 20-101.2. Conspicuous disclosure of dealer finance yield charges.**

17 (a) No motor vehicle dealer may charge a fee or receive a commission or other
18 compensation for providing, procuring, or arranging financing for the retail purchase or
19 lease of a motor vehicle, unless the dealer complies with both of the following
20 requirements:

21 (1) The dealer shall post a conspicuous notice in the sales or finance area
22 of the dealership at least 24 inches on each side informing customers
23 that the dealer may receive a fee, commission, or other compensation
24 for providing, procuring, or arranging financing for the retail purchase
25 or lease of a motor vehicle, for which the customer may be
26 responsible.

27 (2) The dealer shall disclose conspicuously on the purchase order or
28 buyer's order, or on a separate form provided to the purchaser at or
29 prior to the closing on the sale of the vehicle, that the dealer may
30 receive a fee, commission, or other compensation for providing,
31 procuring, or arranging financing for the retail purchase or lease of a
32 motor vehicle, for which the customer may be responsible.

33 (b) Nothing contained in this section or elsewhere under the law of this State
34 shall be deemed to require that a motor vehicle dealer disclose to any actual or potential
35 purchaser the dealer's contractual arrangements with any finance company, bank,
36 leasing company, or other lender or financial institution, or the amount of markup,
37 profit, or compensation which the dealer will receive in any particular transaction or
38 series of transactions from the charging of such fees."

39 **SECTION 3.** Nothing contained in Section 1 or 2 above or elsewhere under
40 the law of this State shall be deemed as imposing any civil or criminal liability on motor
41 vehicle dealers located in this State for failure to disclose any of the information
42 required to be in Sections 1 and 2 above prior to the effective date of this act.

43 **SECTION 4.** G.S. 20-288(e) reads as rewritten:

1 "(e) Each applicant approved by the Division for license as a motor vehicle dealer,
2 manufacturer, factory branch, distributor, distributor branch, or wholesaler shall furnish
3 a corporate surety bond or cash bond or fixed value equivalent of the bond. The amount
4 of the bond for an applicant for a motor vehicle dealer's license is ~~twenty-five thousand~~
5 ~~dollars (\$25,000)~~ fifty thousand dollars (\$50,000) for one established salesroom of the
6 applicant and ~~ten thousand dollars (\$10,000)~~ twenty-five thousand dollars (\$25,000) for
7 each of the applicant's additional established salesrooms. The amount of the bond for
8 other applicants required to furnish a bond is ~~twenty-five thousand dollars (\$25,000)~~
9 fifty thousand dollars (\$50,000) for one place of business of the applicant and ~~ten~~
10 ~~thousand dollars (\$10,000)~~ twenty-five thousand dollars (\$25,000) for each of the
11 applicant's additional places of business.

12 A corporate surety bond shall be approved by the Commissioner as to form and shall
13 be conditioned that the obligor will faithfully conform to and abide by the provisions of
14 this Article and Article 15. A cash bond or fixed value equivalent thereof shall be
15 approved by the Commissioner as to form and terms of deposits as will secure the
16 ultimate beneficiaries of the bond; and such bond shall not be available for delivery to
17 any person contrary to the rules of the Commissioner. Any purchaser of a motor ~~vehicle~~
18 vehicle, including a motor vehicle dealer, who shall have suffered any loss or damage
19 by the failure of any license holder subject to this subsection to deliver free and clear
20 title to any vehicle purchased from a license holder or any other act of a license holder
21 subject to this subsection that constitutes a violation of this Article or Article 15 of this
22 Chapter shall have the right to institute an action to recover against the license holder
23 and the surety. Every license holder against whom an action is instituted shall notify the
24 Commissioner of the action within 10 days after served with process. A corporate surety
25 bond shall remain in force and effect and may not be canceled by the surety unless the
26 bonded person stops engaging in business or the person's license is denied, suspended,
27 or revoked under G.S. 20-294. ~~Such~~ That cancellation may be had only upon 30 days'
28 written notice to the Commissioner and shall not affect any liability incurred or accrued
29 prior to the termination of such 30-day period. This subsection does not apply to a
30 license holder who deals only in trailers having an empty weight of 4,000 pounds or
31 less. This subsection does not apply to manufacturers of, or dealers in, mobile or
32 manufactured homes who furnish a corporate surety bond, cash bond, or a fixed value
33 equivalent thereof, pursuant to G.S. 143-143.12."

34 **SECTION 5.** Sections 1, 2, and 3 of this act become effective October 1,
35 2001. Section 4 of this act is effective when it becomes law.