

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

**SESSION LAW 2001-492
SENATE BILL 649**

AN ACT TO REQUIRE CONSPICUOUS DISCLOSURE OF MOTOR VEHICLE DEALER ADMINISTRATIVE FEES AND FINANCE YIELD CHARGES AND TO INCREASE DEALER SURETY BOND PROTECTION AND TO CLARIFY THE LAW CONCERNING SALVAGE MOTOR VEHICLES.

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) A motor vehicle dealer shall not 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 that 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 measuring 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.

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

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

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

(a) A motor vehicle dealer shall not charge a fee or receive a commission or other compensation for providing, procuring, or arranging financing for the retail purchase or lease of a motor vehicle, unless the dealer complies with both of the following requirements:

- (1) The dealer shall post a conspicuous notice in the sales or finance area of the dealership measuring at least 24 inches on each side informing customers that the dealer may receive a fee, commission, or other compensation for providing, procuring, or arranging financing for the retail purchase or lease of a motor vehicle, for which the customer may be responsible.
- (2) The dealer shall disclose conspicuously on the purchase order or buyer's order, or on a separate form provided to the purchaser at or prior to the closing on the sale of the vehicle, that the dealer may receive a fee, commission, or other compensation for providing, procuring, or arranging financing for the retail purchase or lease of a motor vehicle, for which the customer may be responsible.

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

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

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

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

A corporate surety bond shall be approved by the Commissioner as to form and shall be conditioned that the obligor will faithfully conform to and abide by the provisions of this Article and Article 15. A cash bond or fixed value equivalent thereof shall be approved by the Commissioner as to form and terms of deposits as will secure the ultimate beneficiaries of the bond; and such bond shall not be available for delivery to any person contrary to the rules of the Commissioner. Any purchaser of a motor ~~vehicle~~ vehicle, including a motor vehicle dealer, who shall have suffered any loss or damage by the failure of any license holder subject to this subsection to deliver free and clear title to any vehicle purchased from a license holder or any other act of a license holder subject to this subsection that constitutes a violation of this Article or Article 15 of this Chapter shall have the right to institute an action to recover against the license holder and the surety. Every license holder against whom an action is instituted shall notify the Commissioner of the action within 10 days after served with process. A corporate surety bond shall remain in force and effect and may not be canceled by the surety unless the bonded person stops engaging in business or the person's license is denied, suspended, or revoked under G.S. 20-294. ~~Such~~ That cancellation may be had only upon 30 days' written notice to the Commissioner and shall not affect any liability incurred or accrued

prior to the termination of such 30-day period. This subsection does not apply to a license holder who deals only in trailers having an empty weight of 4,000 pounds or less. This subsection does not apply to manufacturers of, or dealers in, mobile or manufactured homes who furnish a corporate surety bond, cash bond, or a fixed value equivalent thereof, pursuant to G.S. 143-143.12."

SECTION 5. The Division of Motor Vehicles shall issue or reissue an unbranded title for vehicles titled in this State between July 20, 2001, and November 1, 2001, pursuant to G.S. 20-71.3 if the vehicle was a motor vehicle damaged by collision or other occurrence and if the cost of repairs, including parts, did not exceed seventy-five percent (75%) of its fair market value. Transfers of vehicles issued or reissued unbranded titles pursuant to this section shall be subject to the disclosure requirements of G.S. 20-71.4.

SECTION 6. Sections 1, 2, and 3 of this act become effective December 1, 2001. Section 5 of this act becomes effective upon ratification and expires November 1, 2001. Section 4 of this act becomes effective December 31, 2001. Section 6 becomes effective when it becomes law.

In the General Assembly read three times and ratified this the 4th day of December, 2001.

s/ Beverly E. Perdue
President of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 7:21 p.m. this 19th day of December, 2001