

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2001

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SENATE BILL 649  
House Committee Substitute Favorable 9/20/01

Short Title: MV Dealer Disclosure of Certain Fees.

(Public)

Sponsors:

Referred to:

March 22, 2001

1   A BILL TO BE ENTITLED  
2 AN ACT TO REQUIRE CONSPICUOUS DISCLOSURE OF MOTOR VEHICLE  
3 DEALER ADMINISTRATIVE FEES AND FINANCE YIELD CHARGES AND  
4 TO INCREASE DEALER SURETY BOND PROTECTION AND TO CLARIFY  
5 THE LAW CONCERNING SALVAGE MOTOR VEHICLES.

6 The General Assembly of North Carolina enacts:

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

9 "**§ 20-101.1. Conspicuous disclosure of dealer administrative fees.**

10       (a) A motor vehicle dealer shall not charge an administrative, origination,  
11 documentary, procurement, or other similar administrative fee related to the sale or  
12 lease of a motor vehicle, whether or not that fee relates to costs or charges that the  
13 dealer is required to pay to third parties or is attributable to the dealer's internal  
14 overhead or profit, unless the dealer complies with all of the following requirements:

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

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

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

25       (b) Nothing contained in this section or elsewhere under the law of this State  
26 shall be deemed to prohibit a dealer from, in the dealer's discretion, deciding not to  
27 charge an administrative, origination, documentary, procurement, or other similar  
28 administrative fee or reducing the amount of the fee in certain cases, as the dealer may  
29 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) A motor vehicle dealer shall not charge a fee or receive a commission or  
18 other compensation for providing, procuring, or arranging financing for the retail  
19 purchase or lease of a motor vehicle, unless the dealer complies with both of the  
20 following requirements:

21           (1) The dealer shall post a conspicuous notice in the sales or finance area  
22 of the dealership measuring at least 24 inches on each side informing  
23 customers that the dealer may receive a fee, commission, or other  
24 compensation for providing, procuring, or arranging financing for the  
25 retail purchase or lease of a motor vehicle, for which the customer may  
26 be 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 that the dealer will receive in any particular transaction or series  
38 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.

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

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

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

35           **SECTION 5.** The Division of Motor Vehicles shall issue or reissue an  
36 unbranded title for vehicles titled in this State between July 20, 2001, and November 1,  
37 2001, pursuant to G.S. 20-71.3 if the vehicle was a motor vehicle damaged by collision  
38 or other occurrence and if the cost of repairs, including parts, did not exceed  
39 seventy-five percent (75%) of its fair market value. Transfers of vehicles issued or  
40 reissued unbranded titles pursuant to this section shall be subject to the disclosure  
41 requirements of G.S. 20-71.4.

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