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SENATE BILL NO. 1004

Offered January 8, 2025

Prefiled January 7, 2025

A BILL to amend and reenact §§ 46.2-1500 and 46.2-1573.13 of the Code of Virginia, relating to trailer franchise requirements; applicability to certain trailers.

Patron—Boysko

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-1500 and 46.2-1573.13 of the Code of Virginia are amended and reenacted as follows:

§ 46.2-1500. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Affiliate" means any entity in which a manufacturer, factory branch, distributor, or distributor branch has voting control or owns at least 51 percent of the ownership equity, or any entity in which another entity has voting control or owns at least 51 percent of the ownership equity and also has voting control and owns at least 51 percent of the ownership of a manufacturer, factory branch, distributor, or distributor branch. An entity that provides vehicle purchase or lease financing that uses the name of the manufacturer or distributor, or the name of any line make of the manufacturer or distributor, in the name of the entity under which it transacts business with a consumer, other than in the name of an individual product offered by the entity, shall be considered an "affiliate."

"Board" means the Motor Vehicle Dealer Board.

"Camping trailer" means a recreational vehicle constructed with collapsible partial side walls that fold for towing by a consumer-owned tow vehicle and unfold at the campsite to provide temporary living quarters for recreational, camping, or travel use.

"Certificate of origin" means the document provided by the manufacturer of a new motor vehicle or new trailer, or its distributor, which is the only valid indication of ownership between the manufacturer, its distributor, its franchised motor vehicle dealers, and the original purchaser not for resale.

"Dealer-operator" means the individual who works at the established place of business of a dealer and who is responsible for and in charge of day-to-day operations of that place of business.

"Demonstrator" means a new motor vehicle having a gross vehicle weight rating of less than 16,000 pounds that (i) has more than 750 miles accumulated on its odometer that has been driven by dealer personnel or by prospective purchasers during the course of selling, displaying, demonstrating, showing, or exhibiting it and (ii) may be sold as a new motor vehicle, provided the dealer complies with the provisions of subsection D of § 46.2-1530.

"Distributor" means a person who is licensed by the Department under this chapter and who sells or distributes new motor vehicles or new trailers pursuant to a written agreement with the manufacturer to franchised motor vehicle dealers in the Commonwealth.

"Distributor branch" means a branch office licensed by the Department under this chapter and maintained by a distributor for the sale of motor vehicles to motor vehicle dealers or for directing or supervising, in whole or in part, its representatives in the Commonwealth.

"Distributor representative" means a person who is licensed by the Department under this chapter and employed by a distributor or by a distributor branch, for the purpose of making or promoting the sale of motor vehicles or for supervising or contacting its dealers, prospective dealers, or representatives in the Commonwealth.

"Factory branch" means a branch office maintained by a person for the sale of motor vehicles to distributors or for the sale of motor vehicles to motor vehicle dealers, or for directing or supervising, in whole or in part, its representatives in the Commonwealth.

"Factory representative" means a person who is licensed by the Department under this chapter and employed by a person who manufactures or assembles motor vehicles or by a factory branch for the purpose of making or promoting the sale of its motor vehicles or for supervising or contacting its dealers, prospective dealers, or representatives in the Commonwealth.

"Factory repurchase motor vehicle" means a motor vehicle sold, leased, rented, consigned, or otherwise transferred to a person under an agreement that the motor vehicle will be resold or otherwise retransferred only to the manufacturer or distributor of the motor vehicle, and which is reacquired by the manufacturer or distributor, or its agents.

"Family member" means a person who either (i) is the spouse, child, grandchild, spouse of a child, spouse of a grandchild, brother, sister, or parent of the dealer or owner or (ii) has been employed continuously by the

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59 dealer for at least five years.

60 "Franchise" means a written contract or agreement between two or more persons whereby one person, the
61 franchisee, is granted the right to engage in the business of offering and selling, offering and delivering
62 pursuant to a lease, servicing, or offering, selling, and servicing ~~new motor vehicles or~~ new trailers *with a*
63 *gross vehicle weight rating of more than 30,000 pounds or new motor vehicles* of a particular line-make or
64 late model or used motor vehicles of a particular line-make manufactured or distributed by the grantor of the
65 right, the franchisor, and where the operation of the franchisee's business is substantially associated with the
66 franchisor's trademark, trade name, advertising, or other commercial symbol designating the franchisor, the
67 motor vehicle or its manufacturer or distributor. "Franchise" includes any severable part or parts of a
68 franchise agreement which separately provides for selling and servicing different line-makes of the
69 franchisor.

70 "Franchised late model or franchised used motor vehicle dealer" means a dealer selling used motor
71 vehicles, including vehicles purchased from the franchisor, under the trademark of a manufacturer or
72 distributor that has a franchise agreement with a manufacturer or distributor.

73 "Franchised motor vehicle dealer" or "franchised dealer" means a dealer in ~~new motor vehicles or~~ new
74 trailers *with a gross vehicle weight rating of more than 30,000 pounds or new motor vehicles* that has a
75 franchise agreement with a manufacturer or distributor of new motor vehicles or new trailers *with a gross*
76 *vehicle weight rating of more than 30,000 pounds* to sell new motor vehicles or new trailers *with a gross*
77 *vehicle weight rating of more than 30,000 pounds* or to sell used motor vehicles under the trademark of a
78 manufacturer or distributor regardless of the age of the motor vehicles.

79 "Fund" means the Motor Vehicle Dealer Board Fund.

80 "Independent motor vehicle dealer" means a dealer in used motor vehicles.

81 "Late model motor vehicle" means a motor vehicle of the current model year and the immediately
82 preceding model year.

83 "Line-make" means the name of the motor vehicle manufacturer or distributor and a brand or name plate
84 marketed by the manufacturer or distributor. The line-make of a motorcycle manufacturer, factory branch,
85 distributor, or distributor branch includes every brand of all-terrain vehicle, autocycle, and off-road
86 motorcycle manufactured or distributed bearing the name of the motorcycle manufacturer or distributor.

87 "Manufactured home dealer" means any person licensed as a manufactured home dealer under Chapter 4.2
88 (§ 36-85.16 et seq.) of Title 36.

89 "Manufacturer" means a person who is licensed by the Department under this chapter and engaged in the
90 business of constructing or assembling new motor vehicles or new trailers and, in the case of trucks,
91 recreational vehicles, and motor homes, also means a person engaged in the business of manufacturing
92 engines, transmissions, power trains, or rear axles, when such engines, transmissions, power trains, or rear
93 axles are not warranted by the final manufacturer or assembler of the truck, recreational vehicle, or motor
94 home.

95 "Motorcycle" means every motor vehicle designed to travel on not more than three wheels in contact with
96 the ground, except any vehicle within the term "farm tractor" or "moped" as defined in § 46.2-100. Except as
97 otherwise provided, for the purposes of this chapter, all-terrain vehicles, autocycles, and off-road motorcycles
98 are deemed to be motorcycles.

99 "Motor home" means a motorized recreational vehicle designed to provide temporary living quarters for
100 recreational, camping, or travel use that contains at least four of the following permanently installed
101 independent life support systems that meet the National Fire Protection Association standards for recreational
102 vehicles: (i) a cooking facility with an onboard fuel source; (ii) a potable water supply system that includes at
103 least a sink, a faucet, and a water tank with an exterior service supply connection; (iii) a toilet with exterior
104 evacuation; (iv) a gas or electric refrigerator; (v) a heating or air conditioning system with an onboard power
105 or fuel source separate from the vehicle engine; or (vi) a 110-125 volt electric power supply.

106 "Motor vehicle" means the same as provided in § 46.2-100, except, for the purposes of this chapter,
107 "motor vehicle" includes trailers, as defined in this section, and does not include (i) manufactured homes,
108 sales of which are regulated under Chapter 4.2 (§ 36-85.16 et seq.) of Title 36; (ii) nonrepairable vehicles, as
109 defined in § 46.2-1600; (iii) salvage vehicles, as defined in § 46.2-1600; or (iv) mobile cranes that exceed the
110 size or weight limitations as set forth in § 46.2-1105, 46.2-1110, or 46.2-1113 or Article 17 (§ 46.2-1122 et
111 seq.) of Chapter 10.

112 "Motor vehicle dealer" or "dealer" means any person who:

113 1. For commission, money, or other thing of value, buys for resale, sells, or exchanges, either outright or
114 on conditional sale, lease, chattel mortgage, or other similar transaction or arranges or offers or attempts to
115 solicit or negotiate on behalf of others the sale, purchase, or exchange of, either outright or on conditional
116 sale, lease, chattel mortgage, or other similar transaction, an interest in new motor vehicles, new and used
117 motor vehicles, or used motor vehicles alone, whether or not the motor vehicles are owned by him; or

118 2. Is wholly or partly engaged in the business of selling new motor vehicles, new and used motor vehicles,
119 or used motor vehicles only, whether or not the motor vehicles are owned by him.

120 Any person who offers to sell, sells, displays, or permits the display for sale, of five or more motor

121 vehicles within any 12 consecutive months is presumed to be a motor vehicle dealer and may rebut the
122 presumption by a preponderance of the evidence.

123 For the purposes of Article 7.2 (§ 46.2-1573.2 et seq.), "dealer" means recreational vehicle dealer. For the
124 purposes of Article 7.3 (§ 46.2-1573.13 et seq.), "dealer" means ~~trailer dealer~~ and watercraft trailer dealer *and*
125 *trailer dealer of new trailers with a gross vehicle weight rating of more than 30,000 pounds*. For the purposes
126 of Article 7.4 (§ 46.2-1573.25 et seq.), "dealer" means motorcycle dealer.

127 "Motor vehicle dealer" or "dealer" does not include:

128 1. Receivers, trustees, administrators, executors, guardians, conservators or other persons appointed by or
129 acting under judgment or order of any court or their employees when engaged in the specific performance of
130 their duties as employees.

131 2. Public officers, their deputies, assistants, or employees, while performing their official duties.

132 3. Persons other than business entities primarily engaged in the leasing or renting of motor vehicles to
133 others when selling or offering such vehicles for sale at retail, disposing of motor vehicles acquired for their
134 own use and actually so used, when the vehicles have been so acquired and used in good faith and not for the
135 purpose of avoiding the provisions of this chapter.

136 4. Persons dealing solely in the sale and distribution of fire-fighting vehicles, ambulances, and funeral
137 vehicles, including motor vehicles adapted therefor; however, this exemption shall not exempt any person
138 from the provisions of §§ 46.2-1519, 46.2-1520, and 46.2-1548.

139 5. Any financial institution chartered or authorized to do business under the laws of the Commonwealth or
140 the United States which may have received title to a motor vehicle in the normal course of its business by
141 reason of a foreclosure, other taking, repossession, or voluntary reconveyance to that institution occurring as
142 a result of any loan secured by a lien on the vehicle.

143 6. An employee of an organization arranging for the purchase or lease by the organization of vehicles for
144 use in the organization's business.

145 7. Any person licensed to sell real estate who sells a manufactured home or similar vehicle in conjunction
146 with the sale of the parcel of land on which the manufactured home or similar vehicle is located.

147 8. Any person who permits the operation of a motor vehicle show or permits the display of motor vehicles
148 for sale by any motor vehicle dealer licensed under this chapter.

149 9. An insurance company authorized to do business in the Commonwealth that sells or disposes of
150 vehicles under a contract with its insured in the regular course of business.

151 10. Any publication, broadcast, or other communications media when engaged in the business of
152 advertising, but not otherwise arranging for the sale of vehicles owned by others.

153 11. Any person dealing solely in the sale or lease of vehicles designed exclusively for off-road use.

154 12. Any credit union authorized to do business in Virginia, provided the credit union does not receive a
155 commission, money, or other thing of value directly from a motor vehicle dealer.

156 13. Any person licensed as a manufactured home dealer, broker, manufacturer, or salesperson under
157 Chapter 4.2 (§ 36-85.16 et seq.) of Title 36.

158 14. The State Department of Social Services or local departments of social services.

159 15. Any person dealing solely in the sale and distribution of utility or cargo trailers that have unloaded
160 weights of 3,000 pounds or less; however, this exemption shall not exempt any person who deals in stock
161 trailers or watercraft trailers.

162 16. Any motor vehicle manufacturer or distributor selling a new motor vehicle at wholesale to its
163 franchised dealer or a used motor vehicle to a licensed dealer.

164 For the purposes of Article 7 (§ 46.2-1566 et seq.), "dealer" does not include recreational vehicle dealers,
165 trailer dealers, watercraft trailer dealers, or motorcycle dealers.

166 "Motor vehicle salesperson" or "salesperson" means (i) any person who is hired as an employee by a
167 motor vehicle dealer to sell or exchange motor vehicles and who receives or expects to receive a commission,
168 fee, or any other consideration from the dealer; (ii) any person who supervises salespersons employed by a
169 motor vehicle dealer, whether compensated by salary or by commission; (iii) any person, compensated by
170 salary or commission by a motor vehicle dealer, who negotiates with or induces a customer to enter into a
171 security agreement on behalf of a dealer; or (iv) any person who is licensed as a motor vehicle dealer and who
172 sells or exchanges motor vehicles. For purposes of this section, any person who is an independent contractor
173 as defined by the United States Internal Revenue Code shall be deemed not to be a motor vehicle salesperson.

174 "Motor vehicle show" means a display of motor vehicles to the general public at a location other than a
175 dealer's location licensed under this chapter where the vehicles are not being offered for sale or exchange
176 during or as part of the display.

177 "New motor vehicle" means any vehicle, excluding trailers, that is in the possession of the manufacturer,
178 factory branch, distributor, distributor branch, or motor vehicle dealer and for which an original title has not
179 been issued by the Department or by the issuing agency of any other state and has less than 7,500 miles
180 accumulated on its odometer.

181 "New trailer" means any trailer that (i) has not been previously sold except in good faith for the purpose

182 of resale; (ii) has not been used as a rental, driver education, or demonstration trailer or for the personal or
183 business transportation of the manufacturer, distributor, dealer, or any of its employees; (iii) has not been
184 used except for limited use necessary in moving or road testing the trailer prior to delivery to a customer; (iv)
185 is transferred by a certificate of origin; and (v) has the manufacturer's certification that it conforms to all
186 applicable federal trailer safety and emission standards. Notwithstanding clauses (i) and (iii), a trailer that has
187 been previously sold but not titled shall be deemed a new trailer if it meets the requirements of clauses (ii),
188 (iv), and (v).

189 "Original license" means a motor vehicle dealer license issued to an applicant who has never been
190 licensed as a motor vehicle dealer in Virginia or whose Virginia motor vehicle dealer license has been
191 expired for more than 30 days.

192 "Recreational vehicle" or "RV" means a vehicle that (i) is either self-propelled or towed by a consumer-
193 owned tow vehicle, (ii) is primarily designed to provide temporary living quarters for recreational, camping,
194 or travel use; and (iii) complies with all applicable federal vehicle regulations and does not require a special
195 movement permit to legally use the highways. Recreational vehicle includes motor homes, travel trailers, and
196 camping trailers.

197 "Relevant market area" means as follows:

198 1. For motor vehicle dealers except motorcycle dealers, in metropolitan localities the relevant market area
199 shall be a circular area around an existing franchised dealer with a population of 250,000, not to exceed a
200 radius of 10 miles, but in no case less than seven miles.

201 2. For motor vehicle dealers except motorcycle dealers, if the population in a circular area within a radius
202 of 10 miles around an existing franchised dealer is less than 250,000, but the population in an area within a
203 radius of 15 miles around an existing franchised dealer is 150,000 or more, the relevant market area shall be
204 that circular area within the 15-mile radius.

205 3. For motor vehicle dealers except motorcycle dealers, in all other cases the relevant market area shall be
206 a circular area within a radius of 20 miles around an existing franchised dealer or the area of responsibility
207 defined in the franchise agreement, whichever is greater. In any case where the franchise agreement is silent
208 as to area of responsibility, the relevant market area shall be the greater of a circular area within a radius of 20
209 miles around an existing franchised dealer or that area in which the franchisor otherwise requires the
210 franchisee to make significant retail sales or sales efforts.

211 4. For motorcycle dealers, the relevant market area shall be a circular area within a radius of 20 miles if
212 the population within such area around an existing franchised dealer location is one million or more. If the
213 population in a circular area within a 20-mile radius is less than one million, the relevant market area shall be
214 a circular area within a radius of 30 miles. If the population within a 30-mile radius is less than one million,
215 the relevant market area shall be a circular area within a radius of 40 miles. In all cases, the relevant market
216 area shall be the area described above or the area of responsibility defined in the franchise agreement,
217 whichever is greater. In addition, the relevant market area shall include that area in which the franchisor
218 otherwise requires the franchisee to make significant retail sales or sales efforts.

219 Notwithstanding the foregoing provision of this section, in the case of dealers in motor vehicles with gross
220 vehicle weight ratings of 26,000 pounds or greater, excluding recreational vehicles, the relevant market area
221 with respect to the dealer's franchise for all such vehicles shall be a circular area around an existing
222 franchised dealer with a radius of 25 miles, except where the population in such circular area is less than
223 250,000, in which case the relevant market area shall be a circular area around an existing franchised dealer
224 with a radius of 50 miles, or the area of responsibility defined in the franchise, whichever is greater.

225 In determining population for relevant market areas, the most recent census by the U.S. Bureau of the
226 Census or the most recent population update, either from the National Planning Data Corporation or other
227 similar recognized source, shall be accumulated for all census tracts either wholly or partially within the
228 relevant market area.

229 "Retail installment sale" means every sale of one or more motor vehicles to a buyer for his use and not for
230 resale, in which the price of the vehicle is payable in one or more installments and in which the seller has
231 either retained title to the goods or has taken or retained a security interest in the goods under form of
232 contract designated either as a security agreement, conditional sale, bailment lease, chattel mortgage, or
233 otherwise.

234 "Sale at retail" or "retail sale" means the act or attempted act of selling, bartering, exchanging, or
235 otherwise disposing of a motor vehicle to a buyer for his personal use and not for resale.

236 "Sale at wholesale" or "wholesale" means a sale to motor vehicle dealers or wholesalers other than to
237 consumers; a sale to one who intends to resell.

238 "Semitrailer" means every vehicle of the trailer type so designed and used in conjunction with another
239 motor vehicle that some part of its own weight and that of its own load rests on or is carried by another
240 vehicle.

241 "Tractor truck" means every motor vehicle designed and used primarily for drawing other vehicles and
242 not so constructed as to carry a load other than a part of the load and weight of the vehicle attached thereto.

243 "Trailer" means every vehicle without motive power designed for carrying property or passengers wholly

244 on its own structure and for being drawn by another motor vehicle, including semitrailers but not
245 manufactured homes, watercraft trailers, camping trailers, or travel trailers.

246 "Travel trailer" means a vehicle designed to provide temporary living quarters for recreational, camping,
247 or travel use of such size or weight so as not to require a special highway movement permit when towed by a
248 consumer-owned tow vehicle.

249 "Used motor vehicle" means any vehicle other than a new motor vehicle as defined in this section.

250 "Watercraft trailer" means any new or used trailer specifically designed to carry a watercraft or a
251 motorboat and purchased, sold, or offered for sale by a watercraft dealer licensed under Chapter 8 (§ 29.1-800
252 et seq.) of Title 29.1.

253 "Watercraft trailer dealer" means any watercraft dealer licensed under Chapter 8 (§ 29.1-800 et seq.) of
254 Title 29.1.

255 "Wholesale auction" means an auction of motor vehicles restricted to sales at wholesale.

256 **§ 46.2-1573.13. Applicability of requirements to certain trailers.**

257 A. For the purposes of this article:

258 "Dealer" and "trailer dealer" includes watercraft trailer dealers *and dealers of new trailers with a gross*
259 *vehicle weight rating of more than 30,000 pounds.*

260 "Trailer" includes watercraft trailers *and new trailers with a gross vehicle weight rating of more than*
261 *30,000 pounds.*

262 B. *The provisions of this article shall only apply to the sale, exchange, construction, or assembly of*
263 *watercraft trailers and new trailers with a gross vehicle weight rating of more than 30,000 pounds.*