

1 HB448
2 128475-1
3 By Representative Hill
4 RFD: Financial Services
5 First Read: 05-APR-11

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8 SYNOPSIS: This bill would specify that a credit union
9 and a licensee of the Banking Department would not
10 be required to be licensed as a used motor vehicle
11 dealer.

12
13 A BILL
14 TO BE ENTITLED
15 AN ACT
16

17 To amend Section 40-12-390, Code of Alabama 1975,
18 relating to the definitions for licensing for certain
19 professions, to specify that certain financial entities would
20 not be required to be licensed as used motor vehicle dealers.

21 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

22 Section 1. Section 40-12-390 of the Code of Alabama
23 1975, is amended to read as follows:

24 "§40-12-390.

25 "The following words and phrases, when used in this
26 article, shall have the following meanings:

1 "(1) COMMISSIONER. The state Commissioner of
2 Revenue.

3 "(2) DISTRIBUTOR. Any person, firm, or corporation
4 engaged in the business of selling or distributing new motor
5 vehicles to new motor vehicle dealers.

6 "(3) MANUFACTURER. Any person, firm, or corporation
7 engaged in the business of manufacturing or assembling new and
8 unused motor vehicles.

9 "(4) MOTOR VEHICLE. Any motor vehicle as defined in
10 Section 40-12-240, but the term shall not include trailers,
11 semitrailers or house trailers as defined in Section
12 40-12-240.

13 "(5) MOTOR VEHICLE RECONDITIONER. Any person, firm,
14 or corporation engaged in the business of refurbishing,
15 repairing, or replacing damaged parts of motor vehicles for
16 the purpose of preparing the vehicle for resale under the same
17 identification and identity as the vehicle bore before the
18 refurbishing.

19 "(6) MOTOR VEHICLE REBUILDER. Any person, firm, or
20 corporation engaged in the business of making or causing to be
21 made extensive repairs, replacements, or combination of
22 different motor vehicles to the extent of extinguishing the
23 identity of the original vehicle to the extent that the
24 finished motor vehicle shall be assigned a new identification
25 to be issued by the Department of Revenue under the provisions
26 of Chapter 8 of Title 32.

1 "(7) MOTOR VEHICLE WHOLESALER. Any person, firm, or
2 corporation engaged in the business of buying, selling, or
3 exchanging motor vehicles at wholesale to motor vehicle
4 dealers, as defined in this article, and not to the public.

5 "(8) NEW MOTOR VEHICLE. A motor vehicle, other than
6 a used motor vehicle, the legal title of which has never been
7 transferred by a manufacturer, distributor, or new motor
8 vehicle dealer to an ultimate purchaser.

9 "(9) NEW MOTOR VEHICLE DEALER. Any person, firm, or
10 corporation which holds a bona fide contract or franchise in
11 this state in effect with a manufacturer or distributor of new
12 motor vehicles and is engaged in the business of selling,
13 advertising, or negotiating the sale of new motor vehicles or
14 new and used motor vehicles, and the duly licensed new motor
15 vehicle dealers shall be the sole and only persons, firms, or
16 corporations entitled, other than in connection with the
17 rental or leasing of new motor vehicles by persons engaged in
18 the business of motor vehicle rental and leasing, to sell and
19 publicly or otherwise solicit and advertise for sale new motor
20 vehicles.

21 "(10) PERMANENT LOCATION. A building or structure
22 from which sales of motor vehicles are conducted. A house used
23 as a residence by the business owner, a partner, or a
24 corporate officer from which sales of motor vehicles are
25 conducted may also be a permanent location. The building or
26 structure must be owned, rented, or leased and must be used as
27 an office and a place to receive mail, keep records, and

1 conduct routine business, to include an operable telephone
2 listed with the telephone company under the name of the
3 licensed business.

4 "(11) USED MOTOR VEHICLE. A motor vehicle, the legal
5 title of which has been transferred by a manufacturer,
6 distributor, or new motor vehicle dealer to an ultimate
7 purchaser.

8 "(12) USED MOTOR VEHICLE DEALER. Any person, firm,
9 or corporation engaged in the business of buying, selling,
10 exchanging, advertising, or negotiating the sale of five or
11 more motor vehicles at retail during a calendar year, whether
12 or not the motor vehicles are owned by such person, firm, or
13 corporation, or in offering or displaying motor vehicles for
14 sale at retail to the public. The term "selling" or "sale"
15 shall include lease-purchase transactions. The term "used
16 motor vehicle dealer" does not include banks, credit unions,
17 licensees of the State Banking Department, and finance
18 companies which acquire motor vehicles as an incident to their
19 regular business and does not include motor vehicle rental and
20 leasing companies.

21 "(13) ULTIMATE PURCHASER. With respect to a new
22 motor vehicle, the first person, firm, or corporation, other
23 than a new motor vehicle dealer purchasing in his or her
24 capacity as a new motor vehicle dealer, who in good faith
25 purchases the new motor vehicle for purposes other than
26 resale. Ultimate purchaser shall not include a person, firm,
27 or corporation who purchases a vehicle for purposes of

1 altering or remanufacturing the motor vehicle for future
2 resale."

3 Section 2. This act shall become effective
4 immediately following its passage and approval by the
5 Governor, or its otherwise becoming law.