

1 HB400
2 157701-3
3 By Representative Johnson (R)
4 RFD: Commerce and Small Business
5 First Read: 04-FEB-14

1 ENGROSSED

2
3
4 A BILL
5 TO BE ENTITLED
6 AN ACT

7
8 To amend Sections 40-12-264, 40-12-390, 40-12-391,
9 40-12-392, 40-12-395, 40-12-396, 40-12-398, and 40-12-400,
10 Code of Alabama 1975, relating to motor vehicle dealer license
11 plates and regulatory license requirements; to require a
12 uniform motor vehicle dealer license for all motor vehicle
13 dealers except dealers selling only utility trailers or
14 non-titled trailers; to establish a uniform license fee and
15 eliminate the requirement that new and used motor vehicle
16 dealers obtain multiple license categories to conduct
17 business; to reduce the time period required to obtain an
18 off-site sales event license; to standardize the surety bond
19 requirement for all licensees and eliminate the need for a
20 separate designated agent surety bond; to establish
21 prerequisites for obtaining dealer and motorcycle dealer
22 license plates; to further provide for the penalty for
23 violations; and in connection therewith would have as its
24 purpose or effect the requirement of a new or increased
25 expenditure of local funds within the meaning of Amendment 621
26 of the Constitution of Alabama of 1901, now appearing as

1 Section 111.05 of the Official ReCompilation of the
2 Constitution of Alabama of 1901, as amended.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. Section 40-12-264, Code of Alabama 1975,
5 is amended to read as follows:

6 "§40-12-264.

7 "(a) Any person, including a motor vehicle dealer,
8 acquiring a new or used motor vehicle may be granted a grace
9 period of 20 calendar days from date of acquisition to procure
10 a license tag or plate.

11 "(b) A new or used motor vehicle dealer who has a
12 current dealer license as required by ~~Sections~~ Section
13 40-12-51 and 40-12-391 or ~~Section~~ 40-12-169, and Section
14 40-12-391 may purchase dealer license plates from the county
15 license plate issuing official of the county in which the
16 business is located upon presentation of ~~a current dealer~~
17 ~~license~~ the licenses required under Section 40-12-391 and
18 either Section 40-12-51 or Section 40-12-169 from this state
19 and payment of the fee for a private passenger automobile as
20 provided in subdivision (1) of Section 40-12-242 and
21 subsection (a) of Section 40-12-273 per dealer plate. An
22 additional \$1.75 issuance fee shall also be collected, which
23 shall be deposited into the county general fund to be used
24 exclusively for the operation of the issuing official's
25 office. ~~Motorcycle dealers licensed pursuant to Section~~
26 ~~40-12-51 or 40-12-62~~ A new or used motor vehicle dealer that
27 has a current dealer license as required by Sections 40-12-62

1 and 40-12-391 may purchase motorcycle dealers' license plates
2 from the county in which the business is located upon
3 presentation of ~~a current license~~ licenses as provided in both
4 Sections 40-12-62 and 40-12-391 from this state and payment of
5 the motorcycle registration fee as provided by subdivision (2)
6 of Section 40-12-242 and subsection (c) of Section 40-12-273
7 per license plate. The additional \$1.75 issuance fee shall
8 also be collected, which shall be deposited into the county
9 general fund to be used exclusively for the operation of the
10 issuing official's office. Dealer license plates and
11 motorcycle dealer license plates may only be used on motor
12 vehicles owned by the dealership and being held in the
13 inventory of the dealer. The number of dealer license plates
14 is limited as follows:

15 "(1) A licensed new motor vehicle dealer may
16 purchase a maximum combined total of 25 dealer and motorcycle
17 dealer license plates unless the dealer qualifies for
18 additional dealer license plates as provided for in
19 subdivision ~~(4)~~ (3).

20 "(2) A licensed used motor vehicle dealer may
21 purchase a maximum combined total of 10 dealer and motorcycle
22 dealer license plates unless the dealer qualifies for
23 additional dealer license plates as provided for in
24 subdivision ~~(4)~~ (3).

25 ~~"(3) A licensed motorcycle dealer may purchase a~~
26 ~~maximum of 10 motorcycle dealer license plates.~~

1 "~~(4)~~(3) Any new or used motor vehicle dealer who
2 completes applications for certificates of title involving
3 title transfers for 1,500 or more motor vehicles in this state
4 during the previous dealer regulatory license year may
5 purchase a combined total of not more than 25 additional
6 dealer and motorcycle dealer license plates.

7 "(c) Dealer license plates may be used by
8 prospective purchasers, owners, partners, corporate officers,
9 and employees of the dealership and only on vehicles owned by
10 the dealership and being held in the inventory of the dealer.
11 Dealer license plates shall not be used on vehicles that are
12 utilized by the dealership as rental or lease vehicles, tow
13 trucks, service trucks or vans, and other service vehicles. A
14 prospective purchaser shall be limited to 72 hours of use of
15 dealer license plates. All vehicles on temporary loan from a
16 motor vehicle dealer to a customer whose vehicle is being
17 serviced or repaired by the dealer or to a high school for the
18 purpose of student driver education shall be considered dealer
19 demonstrator vehicles and dealer license plates may be used on
20 these vehicles provided a fee is not charged by the dealer for
21 the use.

22 "(d) Licensed new and used motor vehicle dealers
23 selling trucks or truck tractors with more than two axles on
24 the power unit or a gross weight exceeding 26,000 pounds shall
25 allow prospective purchasers to use dealer license plates for
26 one payload trip only, and that use shall not exceed 72 hours.
27 The dealer shall provide the prospective purchaser a permit

1 fully describing the vehicle by make, model, year, and vehicle
2 identification number. The permit shall contain the complete
3 name and address of the dealership and of the prospective
4 customer and shall clearly indicate the date and time the
5 permit was issued. The permit and dealer license plate shall
6 be issued only for demonstration purposes, and shall not be
7 issued by the dealer when a vehicle is loaned or rented to an
8 operator for any other purpose.

9 "(e) A licensed new or used motor vehicle dealer or
10 wholesaler may purchase a maximum of 10 dealer transit license
11 plates to be used on motor vehicles being offered for sale to
12 licensed motor vehicle dealers. Dealer transit license plates
13 may be used by the new or used motor vehicle dealer or a
14 wholesaler to transport vehicles within the inventory of the
15 dealer or wholesaler. Dealer transit license plates shall not
16 be used on service vehicles including tow trucks, rental, or
17 lease vehicles. The fees for dealer transit license plates
18 shall be the same as the fees provided in subsection (b) for
19 dealer license plates.

20 "(f) A licensed motor vehicle rebuilder ~~or motor~~
21 ~~vehicle reconditioner~~ may purchase a maximum of 10 dealer
22 transit license plates to be used in accordance with
23 subsection (a) of Section 32-8-87.

24 "(g) Any manufacturer of private passenger
25 automobiles, motorcycles, trucks, truck tractors, or trailers
26 who has manufacturing facilities located in this state, may
27 procure license plates from the county license plate issuing

1 official of the county in which the business is located upon
2 payment of the private passenger automobile or motorcycle fees
3 per plate, as provided in subdivision (1) or (2) of Section
4 40-12-242 and subsection (a) or (c) of Section 40-12-273. The
5 additional one dollar seventy-five cents (\$1.75) issuance fee
6 shall also be collected, which shall be deposited into the
7 county general fund to be used exclusively for the operation
8 of the issuing official's office. The word "manufacturer"
9 shall appear on the license plates. The license plates may be
10 used for transporting and testing new motor vehicles owned by
11 the manufacturer.

12 "(h) The proceeds of the fees levied in this section
13 shall not be subject to proration. The fees collected pursuant
14 to this section shall be distributed by the county license
15 plate issuing officials in the same manner as fees for private
16 passenger automobiles and motorcycles pursuant to Sections
17 40-12-269, 40-12-270, and 40-12-274. No fees provided in this
18 section may be refunded.

19 "(i) No motor vehicle ad valorem taxes, registration
20 fees imposed by local law, or issuance fees imposed by local
21 law shall be collected by the county official who issues
22 license plates pursuant to this section. In addition, motor
23 vehicle delinquency penalties and interest fees shall not be
24 applicable when issuing license plates pursuant to this
25 section.

26 "(j) Any person to whom license plates are issued
27 under this section, upon forfeiture or revocation of his or

1 her license under Section 40-12-390, et seq., or upon
2 discontinuing business, shall surrender to the issuing
3 official all license plates issued within 10 calendar days
4 from the date of forfeiture or revocation of license or
5 discontinuing business.

6 "(k) Motor vehicle dealer, motorcycle dealer,
7 manufacturer, or dealer transit license plates may not be used
8 in lieu of regular issued license plates as a means of
9 avoiding the registration and ad valorem tax requirements of
10 this chapter. Any person who willfully violates this section
11 of law shall be subject to a Department of Revenue penalty of
12 one hundred dollars (\$100) for the first violation and five
13 hundred dollars (\$500) for each subsequent violation.

14 "(l) A licensed new or used motor vehicle dealer
15 shall register any motor vehicle and purchase an Alabama
16 license plate of the proper classification for any motor
17 vehicle withdrawn from the inventory of the dealer.

18 "(m) A motor vehicle dealer, motorcycle dealer,
19 dealer transit, or manufacturer license plate may be replaced
20 in accordance with Section 40-12-265.

21 "(n) Any person who makes willful misstatements or
22 files documents with erroneous information in order to obtain
23 motor vehicle dealer, motorcycle dealer, dealer transit, or
24 manufacturer license plates shall be guilty of a Class A
25 misdemeanor subject to criminal penalties as provided by law,
26 and may be assessed a civil penalty of one thousand dollars
27 (\$1,000) by the department.

1 "(o) A new or used motor vehicle dealer, ~~motor~~
2 ~~vehicle reconditioner,~~ motor vehicle rebuilder, or motor
3 vehicle wholesaler, licensed pursuant to ~~Sections~~ Section
4 40-12-51, 40-12-62, or 40-12-169, ~~or~~ and Section 40-12-391; ~~a~~
5 ~~motorcycle dealer,~~ licensed pursuant to ~~Section 40-12-62;~~ or a
6 manufacturer of private passenger automobiles, motorcycles,
7 trucks, truck tractors, or trailers, licensed pursuant to this
8 section, is prohibited from renewing his or her ~~license~~
9 licenses if the new or used motor vehicle dealer, ~~motor~~
10 ~~vehicle reconditioner,~~ motor vehicle rebuilder, motor vehicle
11 wholesaler, ~~motorcycle dealer,~~ or manufacturer fails to pay
12 any outstanding liabilities resulting from the assessment of
13 penalties provided in this section."

14 Section 2. Sections 40-12-390, 40-12-391, 40-12-392,
15 40-12-395, 40-12-396, 40-12-398, and 40-12-400, Code of
16 Alabama 1975, are amended to read as follows:

17 "§40-12-390.

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

20 "(1) COMMISSIONER. The state Commissioner of
21 Revenue.

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

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

1 "(4) MOTOR VEHICLE. Any motor vehicle as defined in
2 Section 40-12-240, but the term shall not include ~~trailers,~~
3 ~~semitrailers or house trailers as defined in Section 40-12-240~~
4 any trailer not required to have a certificate of title.

5 "~~(5) MOTOR VEHICLE RECONDITIONER. Any person, firm,~~
6 ~~or corporation engaged in the business of refurbishing,~~
7 ~~repairing, or replacing damaged parts of motor vehicles for~~
8 ~~the purpose of preparing the vehicle for resale under the same~~
9 ~~identification and identity as the vehicle bore before the~~
10 ~~refurbishing.~~

11 "~~(6)~~ (5) MOTOR VEHICLE REBUILDER. Any person, firm,
12 or corporation engaged in the business of making or causing to
13 be made extensive repairs, replacements, or combination of
14 different motor vehicles to the extent of extinguishing the
15 identity of the original vehicle to the extent that the
16 finished motor vehicle ~~shall~~ may be assigned a new
17 identification to be issued by the Department of Revenue under
18 the provisions of Chapter 8 of Title 32. The term also
19 includes any person, firm, or corporation engaged in the
20 business of refurbishing, repairing, or replacing damaged
21 parts of motor vehicles for the purpose of preparing the
22 vehicle for resale under the same identification and identity
23 as the vehicle had before the refurbishing.

24 "~~(7)~~ (6) MOTOR VEHICLE WHOLESALER. Any person, firm,
25 or corporation engaged in the business of buying, selling, or
26 exchanging motor vehicles at wholesale to motor vehicle
27 dealers, as defined in this article, and not to the public.

1 "~~(8)~~(7) NEW MOTOR VEHICLE. A motor vehicle, other
2 than a used motor vehicle, the legal title of which has never
3 been transferred by a manufacturer, distributor, or new motor
4 vehicle dealer to an ultimate purchaser.

5 "~~(9)~~(8) NEW MOTOR VEHICLE DEALER. Any person, firm,
6 or corporation which holds a bona fide contract or franchise
7 in this state in effect with a manufacturer or distributor of
8 new motor vehicles and is engaged in the business of selling,
9 advertising, or negotiating the sale of new motor vehicles or
10 new and used motor vehicles, and the duly licensed new motor
11 vehicle dealers shall be the sole and only persons, firms, or
12 corporations entitled, other than in connection with the
13 rental or leasing of new motor vehicles by persons engaged in
14 the business of motor vehicle rental and leasing, to sell and
15 publicly or otherwise solicit and advertise for sale new motor
16 vehicles. The term also includes a motor vehicle rebuilder and
17 motor vehicle wholesaler as defined in this article.

18 "~~(10)~~(9) PERMANENT LOCATION. A building or structure
19 from which sales of motor vehicles are conducted. A house used
20 as a residence by the business owner, a partner, or a
21 corporate officer from which sales of motor vehicles are
22 conducted may also be a permanent location. The building or
23 structure must be owned, rented, or leased and must be used as
24 an office and a place to receive mail, keep records, and
25 conduct routine business, to include an operable telephone
26 listed with the telephone company under the name of the
27 licensed business.

1 "~~(11)~~(10) USED MOTOR VEHICLE. A motor vehicle, the
2 legal title of which has been transferred by a manufacturer,
3 distributor, or new motor vehicle dealer to an ultimate
4 purchaser.

5 "~~(12)~~(11) USED MOTOR VEHICLE DEALER. Any person,
6 firm, or corporation engaged in the business of buying,
7 selling, exchanging, advertising, or negotiating the sale of
8 five or more motor vehicles at retail during a calendar year,
9 whether or not the motor vehicles are owned by such person,
10 firm, or corporation, or in offering or displaying motor
11 vehicles for sale at retail to the public. The term "selling"
12 or "sale" shall include lease-purchase transactions. The term
13 "used motor vehicle dealer" does not include banks, credit
14 unions, licensees of the State Banking Department, and finance
15 companies which acquire motor vehicles as an incident to their
16 regular business and does not include motor vehicle rental and
17 leasing companies. The term also includes a motor vehicle
18 rebuilder and motor vehicle wholesaler as defined in this
19 article.

20 "~~(13)~~(12) ULTIMATE PURCHASER. With respect to a new
21 motor vehicle, the first person, firm, or corporation, other
22 than a new motor vehicle dealer purchasing in his or her
23 capacity as a new motor vehicle dealer, who in good faith
24 purchases the new motor vehicle for purposes other than
25 resale. Ultimate purchaser shall not include a person, firm,
26 or corporation who purchases a vehicle for purposes of

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

3 "§40-12-391.

4 "(a) No person shall be licensed as an automobile
5 dealer under the provisions of Section 40-12-51, nor shall any
6 person engage in business as, serve in the capacity of, or act
7 as a new motor vehicle dealer, used motor vehicle dealer,
8 ~~motor vehicle reconditioner,~~ motor vehicle rebuilder, or motor
9 vehicle wholesaler in this state, without first obtaining a
10 license as provided in this article and, if a new motor
11 vehicle dealer, or a used motor vehicle dealer, a state sales
12 tax number.

13 "(b) No person, firm, or corporation shall engage in
14 the business of buying, selling, exchanging, advertising, or
15 negotiating the sale of new motor vehicles unless he or she
16 holds a valid license as a new motor vehicle dealer in this
17 state for the make or makes of new motor vehicles being
18 bought, sold, exchanged, advertised, or negotiated or unless a
19 bona fide employee or agent of the licensee.

20 "(c) Notwithstanding any law of this state providing
21 otherwise, neither a new motor vehicle dealer nor a used motor
22 vehicle dealer nor any person engaged in the business of motor
23 vehicle rental and leasing:

24 "(1) With respect to a credit sale transaction, is
25 required to be licensed under Chapter 19 of Title 5 in order
26 to pay any amount necessary to satisfy a lease on, security
27 interest in, or lien on any motor vehicle either returned to

1 that dealer or to the lessor or traded in by the purchaser in
2 connection with the credit sale transaction, and to include
3 that amount as part of the amount to be paid by the purchaser
4 under the credit sale transaction; or

5 "(2) With respect to a lease transaction, is subject
6 to Chapter 19 of Title 5 or otherwise deemed to have made a
7 loan or credit sale by virtue of paying any amount necessary
8 to satisfy a lease on, security interest in, or lien on any
9 motor vehicle either returned to that dealer or to the
10 original lessor or traded in by the lessee in connection with
11 the lease transaction, and including that amount as part of
12 the amount to be paid by the lessee under the lease
13 transaction.

14 "§40-12-392.

15 "(a) The application for a license shall be in such
16 form and shall be subject to such rules and regulations as may
17 be prescribed by the commissioner. An application shall be
18 verified by the oath or affirmation of the applicant. If the
19 applicant is a sole proprietorship, the application shall
20 contain the name and residence of the applicant. If the
21 applicant is a partnership, the application shall contain the
22 names and residences of each partner. If the applicant is a
23 corporation, the application shall contain the names and
24 residences of the officers and directors. If the applicant is
25 a new motor vehicle dealer, or used motor vehicle dealer in
26 this state, the application shall contain the state sales tax
27 number assigned to the applicant. The application shall

1 enumerate the number of new and used vehicles sold during the
2 previous calendar year; describe the exact location of the
3 place of business, and shall state: That the location is a
4 permanent one; that the location affords sufficient space upon
5 and within which to adequately display one or more motor
6 vehicles offered for sale and that an appropriate sign
7 designates the location as being the place of business of a
8 motor vehicle dealer; that it is a suitable place from which
9 the applicant can in good faith carry on such business and
10 keep and maintain books and records necessary to conduct
11 business, which shall be available at all reasonable hours for
12 inspection by the commissioner. The application shall state
13 that the applicant is either (i) franchised by a manufacturer
14 of motor vehicles, and, if so, the name of the manufacturer
15 and line make that the applicant is authorized to represent,
16 or (ii) a used motor vehicle dealer, ~~reconditioner~~, rebuilder,
17 or wholesaler. Upon making application, the person applying
18 shall pay an application fee of ~~ten dollars (\$10)~~ twenty-five
19 dollars (\$25) to the commissioner in addition to other fees
20 required by law. The commissioner may cause an investigation
21 to be made and upon being satisfied that the facts set forth
22 in the application are true, shall issue a license certificate
23 to the applicant, which shall entitle the licensee to operate
24 as a motor vehicle dealer, ~~reconditioner~~, rebuilder, or
25 wholesaler for one year from the first day of October of each
26 year. If the commissioner, upon investigation, determines that
27 a license should not be issued, the commissioner may deny the

1 license and the applicant may appeal the denial to the
2 Administrative Law Division of the department as allowed in
3 Chapter 2A of this title.

4 "(b) A ~~motor vehicle reconditioner,~~ motor vehicle
5 ~~rebuilder,~~ or a motor vehicle wholesaler who is not a new or
6 used motor vehicle dealer shall not be required to maintain a
7 sign designating the location, and may maintain books,
8 records, and files of his or her business at his or her home;
9 provided, that books, records, and files shall be accessible
10 and available for inspection by the commissioner, inspectors,
11 or employees during normal business hours on usual business
12 days. The location may be adjacent to his or her residence.

13 "~~(c) If a motor vehicle reconditioner, a motor~~
14 ~~vehicle rebuilder, or a motor vehicle wholesaler shall also be~~
15 ~~a motor vehicle dealer within the meaning of this article, he~~
16 ~~or she shall qualify with the commissioner both as a motor~~
17 ~~vehicle dealer and motor vehicle reconditioner, or motor~~
18 ~~vehicle rebuilder or motor vehicle wholesaler, and shall file~~
19 ~~his or her application and pay the fee for each business, and~~
20 ~~shall comply with the requirements of subsections (a) and (b)~~
21 ~~of this section as to the business location for each business~~
22 ~~licensed by the commissioner.~~

23 "~~(d) (c)~~ A ~~motor vehicle reconditioner,~~ motor vehicle
24 ~~rebuilder,~~ or motor vehicle wholesaler may not sell any motor
25 vehicles or component parts to anyone other than a licensed
26 motor vehicle dealer, motor vehicle wholesaler, ~~or other motor~~

1 ~~vehicle reconditioner~~ or motor vehicle rebuilder, or as
2 salvage.

3 ~~"(e) Motor~~ (d) New and used motor vehicle dealers,
4 ~~motor vehicle reconditioners,~~ motor vehicle rebuilders, and
5 motor vehicle wholesalers shall be required to maintain
6 blanket motor vehicle liability insurance coverage on vehicles
7 operated on the public streets and highways of this state,
8 including vehicles in dealership inventory. Evidence of
9 liability insurance for business and inventory vehicles shall
10 be filed with the application for license, and the application
11 for license shall be denied if proof of liability insurance
12 satisfactory to the commissioner is not provided. A licensee
13 who fails to maintain a blanket motor vehicle liability
14 insurance policy during the licensing period may be assessed a
15 civil penalty of up to five thousand dollars (\$5,000). The
16 penalty may be assessed against the bond as provided for in
17 Section 40-12-398.

18 "§40-12-395.

19 "(a) A person licensed under this article shall
20 obtain a supplemental license for each additional place of
21 business, ~~on a form to be furnished~~ in a manner as prescribed
22 by the commissioner and upon payment of an additional
23 application fee of ~~\$5~~ five dollars (\$5) for each ~~such~~
24 additional location. The signage and other requirements of
25 Section 40-12-392 shall apply to each additional place of
26 business. Only one licensed dealer shall operate at the same
27 place of business; ~~provided, that a licensed motor vehicle~~

1 ~~reconditioner or motor vehicle rebuilder may operate on the~~
2 ~~premises for which he is licensed to operate as a motor~~
3 ~~vehicle dealer.~~

4 "(b) Notwithstanding the requirement that sales of
5 new and used motor vehicles shall be made only from the
6 permanent location of the new or used motor vehicle dealer,
7 such dealers may conduct sales of new and used motor vehicles
8 from locations off-site of their permanent locations on the
9 following conditions:

10 "(1) The off-site sales events shall not exceed
11 three per dealer per license year with each sale not to exceed
12 10 consecutive calendar days in duration. Off-site sales of
13 new motor vehicles by new motor vehicle dealers shall be
14 conducted only at a location within the new motor vehicle
15 dealer's area of responsibility as defined in the contract or
16 franchise agreement between the new motor vehicle dealer and
17 its manufacturer or distributor. Off-site sales of used motor
18 vehicles shall be conducted only at a location in the county
19 or city where the new or used motor vehicle dealer maintains a
20 permanent location.

21 "(2) The off-site sale need not be conducted in a
22 building or permanent structure, but the motor vehicle dealer
23 shall display a temporary sign at the location where the
24 off-site sale is conducted identifying the name of the motor
25 vehicle dealer who is conducting the sale as stated on the
26 license required by this section. All advertisements and other

1 notices of the sale must be conducted in the name of the
2 licensee.

3 "(3) ~~Not later than 14 days~~ At least one calendar
4 day before conducting each off-site sale, the motor vehicle
5 dealer shall obtain ~~from the commissioner on a form designed~~
6 ~~by the commissioner~~ an off-site sale license by making license
7 application to the commissioner and paying an application fee
8 of twenty-five dollars (\$25) for each off-site sale to be
9 conducted. If more than one motor vehicle dealer participates
10 in the same off-site sale, each motor vehicle dealer
11 participating in the sale shall obtain an off-site sale
12 license from the commissioner.

13 "(c) In addition to the foregoing, the motor vehicle
14 dealer shall obtain from the judge of probate or other county
15 ~~taxing~~ licensing official a county license for the off-site
16 location by paying the county license tax imposed pursuant to
17 Section 40-12-51. If more than one motor vehicle dealer
18 participates in the same off-site sale, each motor vehicle
19 dealer participating in the sale shall obtain from the judge
20 of probate or other county ~~taxing~~ licensing official a county
21 license for the off-site location by paying the county license
22 tax imposed pursuant to Section 40-12-51.

23 "(d) For purposes of this section, a new motor
24 vehicle dealer temporarily displaying new vehicles at a
25 shopping mall, auto show, or other location solely for
26 advertising or display purposes and from which location sales

1 are not conducted, shall not be deemed to be conducting an
2 off-site sale and no off-site sales license shall be required.

3 "(e) For purposes of this section, an off-site sales
4 license shall not be required for wholesale sales between
5 licensed motor vehicle dealers or for retail sales by new or
6 used motor vehicle dealers conducted at the permanent location
7 of an auction company which is licensed as a used motor
8 vehicle dealer.

9 "§40-12-396.

10 "(a) The commissioner may, subject to the appeal
11 provisions allowed in Chapter 2A of this Title 40, suspend or
12 revoke any license issued for the willful and intentional
13 failure of the licensee to comply with the provisions of this
14 article or for the willful failure to maintain his business
15 premises, location, and sign as described in his application.

16 "(b) A license may be revoked or a license
17 application may be denied by the Department of Revenue for any
18 of the following reasons:

19 "(1) Fraud practiced or any material misstatement in
20 license application.

21 "(2) Change of condition after a license is granted
22 or the failure to maintain qualification for the license.

23 "(3) Skipping title assignment; accepting open
24 assignment of title and/or bill of sale for a motor vehicle
25 which is not completed by identifying said licensee as the
26 purchaser or assignee of the motor vehicle.

27 "(4) ~~Has~~ Having no established place of business.

1 "(5) Failing to keep and maintain records.

2 "(6) ~~Has knowingly dealt~~ Knowingly dealing in stolen
3 motor vehicles, parts, or accessories.

4 "(7) Willful failure to comply with provisions of
5 this chapter, or any rule or regulation promulgated
6 thereunder.

7 "(8) Disconnecting, turning back, or resetting the
8 odometer of any motor vehicle in violation of state or federal
9 law.

10 "(9) Filing a materially erroneous or fraudulent tax
11 return as certified by the Department of Revenue.

12 "(10) Revocation as a designated agent, as provided
13 for in Section 32-8-34, for failing to faithfully perform his
14 or her duties as a designated agent.

15 "§40-12-398.

16 "~~Annually, before~~ Before any license shall be issued
17 to a new motor vehicle dealer, used motor vehicle dealer,
18 ~~motor vehicle reconditioner,~~ motor vehicle rebuilder, or motor
19 vehicle wholesaler, the applicant shall ~~either~~ deliver to the
20 commissioner a good and sufficient surety bond, executed by
21 the applicant as principal and by a corporate surety company
22 qualified to do business in the state as surety, in the sum of
23 ~~\$25,000 for a new motor vehicle dealer and \$10,000 for all~~
24 ~~other dealers fifty thousand dollars (\$50,000)~~ twenty-five
25 thousand dollars (\$25,000). Such bond shall be in a form to be
26 approved by the commissioner, and shall be conditioned that
27 the motor vehicle dealer, ~~motor vehicle reconditioner,~~ motor

1 vehicle rebuilder, or motor vehicle wholesaler shall comply
2 with the conditions of any contract made by such dealer in
3 connection with the sale or exchange of any motor vehicle and
4 shall not violate any of the provisions of law relating to the
5 conduct of the business for which he is licensed. Such bond
6 shall be payable to the commissioner and to his successors in
7 office, and shall be in favor of any person who shall recover
8 any judgment for any loss as a result of any violation of the
9 conditions hereinabove contained. ~~Such bond shall be for the~~
10 ~~license period, and a new bond or proper continuation~~
11 ~~certificate shall be delivered to the commissioner at the~~
12 ~~beginning of each license period; provided, that the aggregate~~
13 ~~liability of the surety in any one license year shall, in no~~
14 ~~event, exceed the sum of such bond. The provisions of this~~
15 ~~section shall not apply to motor vehicle dealers or~~
16 ~~wholesalers who hold a valid motor vehicle dealer license~~
17 ~~under Section 40-12-51 or to motor vehicle rebuilders or~~
18 ~~reconditioners, as defined in this article who hold a valid~~
19 ~~business license to engage in such business as of April 1,~~
20 ~~1978. The bond shall serve in lieu of the bond provided for in~~
21 ~~subsection (b) of Section 32-8-34 and, in addition to all~~
22 ~~other conditions, shall also be conditioned upon their~~
23 ~~performance of their duties as a designated agent under~~
24 ~~Chapter 8 of Title 32.~~

25 "§40-12-400.

26 "Any person violating any of the provisions of this
27 article shall be guilty of a Class A misdemeanor ~~and, upon~~

1 ~~conviction, shall be punished by a fine of not less than five~~
2 ~~hundred dollars (\$500) nor more than two thousand dollars~~
3 ~~(\$2,000), or by imprisonment in the county jail for not less~~
4 ~~than 30 nor more than 90 days, or by both such fine and~~
5 ~~imprisonment."~~

6 Section 3. Although this bill would have as its
7 purpose or effect the requirement of a new or increased
8 expenditure of local funds, the bill is excluded from further
9 requirements and application under Amendment 621, now
10 appearing as Section 111.05 of the Official Recompilation of
11 the Constitution of Alabama of 1901, as amended, because the
12 bill defines a new crime or amends the definition of an
13 existing crime.

14 Section 4. Section 1 of this act shall become
15 effective October 1, 2014, following its passage and approval
16 by the Governor or its otherwise becoming law. Section 2 of
17 this act shall become effective August 1, 2014, following its
18 passage and approval by the Governor or its otherwise becoming
19 law.

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House of Representatives

Read for the first time and re-
ferred to the House of Representa-
tives committee on Commerce and
Small Business..... 04-FEB-14

Read for the second time and placed
on the calendar 1 amendment 12-FEB-14

Read for the third time and passed
as amended..... 20-FEB-14

Yeas 95, Nays 0, Abstains 1

Jeff Woodard
Clerk