

1 HB222
2 197432-3
3 By Representatives Pettus and Wood (R)
4 RFD: State Government
5 First Read: 19-MAR-19

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

ENROLLED, An Act,

Relating to designated agents of the Department of Revenue; to amend Sections 32-8-2, 32-8-3, and 32-8-34, Code of Alabama 1975, to update the definition of designated agent to include title service providers; to authorize the department to revoke the authority of a title service provider to act on its behalf; and to provide the bonding requirements of title service providers.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 32-8-2, 32-8-3, and 32-8-34, Code of Alabama 1975, are amended to read as follows:

"§32-8-2.

"For the purpose of this chapter, the following terms shall have the meanings respectively ascribed to them in this section, except where the context clearly indicates a different meaning:

"(1) CURRENT ADDRESS. A new address different from the address shown on the application or on the certificate of title. The owner, within 30 days after the address is changed from that shown on the application or on the certificate of title, shall notify the department of the change of address in the manner prescribed by the department.

"(2) DEALER. A person licensed as an automobile or motor vehicle dealer, or travel trailer dealer and engaged

1 regularly in the business of buying, selling, or exchanging
2 motor vehicles, trailers, semitrailers, trucks, tractors or
3 other character of commercial or industrial motor vehicles, or
4 travel trailers in this state, and having in this state an
5 established place of business.

6 "(3) DEPARTMENT. The Department of Revenue of this
7 state.

8 "(4) DESIGNATED AGENT. Each judge of probate,
9 commissioner of licenses, director of revenue, or other county
10 official in this state authorized and required by law to issue
11 motor vehicle license tags, who may perform his or her duties
12 under this chapter personally or through his or her deputies,
13 ~~or such other persons located in this state, as the department~~
14 ~~may designate~~; the term shall also mean those dealers as
15 herein defined who are appointed by the department as provided
16 in Section 32-8-34 and such persons who are appointed by the
17 department as provided in subsection (c) of Section 32-8-34 to
18 perform the duties of designated agent for the purposes of
19 this chapter, ~~the~~. Such dealers or other designated persons
20 may perform their duties under this chapter either personally,
21 ~~or~~ through any of their officers or employees, or through a
22 title service provider.

23 "(5) IMPLEMENT OF HUSBANDRY. Every vehicle designed
24 and adapted exclusively for agricultural, horticultural, or
25 livestock raising operations or for lifting or carrying an

1 implement of husbandry and in either case not subject to
2 licensing or registration if used upon the highways.

3 "(6) LIEN. Every kind of written lease which is
4 substantially equivalent to an installment sale or which
5 provides for a right of purchase, conditional sale,
6 reservation of title, deed of trust, chattel mortgage, trust
7 receipt, and every written agreement or instrument of whatever
8 kind or character whereby an interest other than absolute
9 title is sought to be held or given on a motor vehicle.

10 "(7) LIENHOLDER. Any person, firm, copartnership,
11 association, or corporation holding a lien as herein defined
12 on a motor vehicle.

13 "(8) MANUFACTURER. Any person regularly engaged in
14 the business of manufacturing, constructing, assembling,
15 importing, or distributing new motor vehicles, either within
16 or without this state.

17 "(9) MOTOR VEHICLE. The term shall include all of
18 the following:

19 "a. Every automobile, motorcycle, mobile trailer,
20 semitrailer, truck, truck tractor, trailer, and other device
21 that is self-propelled or drawn, in, upon, or by which any
22 person or property is or may be transported or drawn upon a
23 public highway except such as is moved by animal power or used
24 exclusively upon stationary rails or tracks.

1 "b. Every trailer coach and travel trailer
2 manufactured upon a chassis or undercarriage as an integral
3 part thereof drawn by a self-propelled vehicle.

4 "(10) NEW VEHICLE. A motor vehicle that has never
5 been the subject of a first sale for use by a new motor
6 vehicle dealer as defined in Section 40-12-390 or an
7 equivalently licensed dealer in another state and includes,
8 among others, vehicles maintained in a dealer's inventory,
9 vehicles provided by the manufacturer or dealer for use by
10 participants in charity, sporting, or other special events,
11 vehicles used for drivers' education, and vehicles delivered
12 to customers that were subsequently returned to the dealer
13 without a registration being issued on the vehicle.

14 "(11) NONRESIDENT. Every person who is not a
15 resident of this state.

16 "(12) OWNER. A person, other than a lienholder,
17 having the property in or title to a vehicle. The term
18 includes a person entitled to the use and possession of a
19 vehicle subject to a security interest in another person, but
20 excludes a lessee under a lease not intended as security.
21 Under any lease-purchase or installment sales agreement where
22 a governmental agency, either city, county or state, is the
23 lessee or purchaser with a security interest or right to
24 purchase, the lessee or purchaser shall be the owner for
25 purposes of this chapter.

1 "(13) PERSON. The term shall include every natural
2 person, firm, copartnership, association, or corporation.

3 "(14) PICKUP TRUCK. A truck with not more than two
4 axles and a gross weight not exceeding 12,000 pounds.

5 "(15) POLE TRAILER. Every vehicle without motive
6 power designed to be drawn by another vehicle and attached to
7 the towing vehicle by means of a reach or pole, or by being
8 boomed or otherwise secured to the towing vehicle, and
9 ordinarily used for transporting long or irregularly shaped
10 loads such as logs, poles, pipes, boats, or structural members
11 capable generally of sustaining themselves as beams between
12 the supporting connections.

13 "(16) SCRAP METAL PROCESSOR. Any person, firm, or
14 corporation engaged in the business of buying scrap vehicles,
15 automotive parts, or other metallic waste by weight to process
16 the material into scrap metal for remelting purposes, who
17 utilizes machinery and equipment for processing and
18 manufacturing ferrous and nonferrous metallic scrap into
19 prepared grades, and whose principal product is metallic
20 scrap.

21 "(17) SCRAP VEHICLE. Any vehicle that has been
22 crushed or flattened by mechanical means or which has been
23 otherwise damaged to the extent that it cannot economically be
24 repaired or made roadworthy.

1 "(18) SECURITY AGREEMENT. A written agreement that
2 reserves or creates a security interest.

3 "(19) SECURITY INTEREST. An interest in a vehicle
4 reserved or created by agreement and which secures payment or
5 performance of an obligation. The term includes the interest
6 of a lessor under a lease intended as security. A security
7 interest is perfected when it is valid against third parties
8 generally, subject only to specific statutory exceptions.

9 "(20) SPECIAL MOBILE EQUIPMENT. Every vehicle not
10 designed or used primarily for the transportation of persons
11 or property and only incidentally operated or moved over the
12 highway, including but not limited to: ditch-digging
13 apparatus; well-boring apparatus; road construction and
14 maintenance machinery such as asphalt spreaders, bituminous
15 mixers, bucket loaders, tractors other than truck tractors,
16 ditchers, leveling graders, finishing machines, motor graders,
17 road rollers, scarifiers, earth-moving carryalls and scrapers,
18 power shovels and draglines, and self-propelled cranes; and
19 earth-moving equipment. The term does not include manufactured
20 homes, dump trucks, truck-mounted transit mixers, cranes, or
21 shovels or other vehicles designed for the transportation of
22 persons or property to which machinery has been attached.

23 "(21) STATE. A state, territory, or possession of
24 the United States, the District of Columbia, the Commonwealth
25 of Puerto Rico, or a province of the Dominion of Canada.

1 "(22) TITLE SERVICE PROVIDER. A person who is bonded
2 under subsection (d) of Section ~~32-8-4~~ 32-8-34 and authorized
3 by the department to act as an agent for a fee or other
4 consideration on behalf of the following persons in the
5 performance of their duties under this chapter:

6 "a. A dealer or other designated person appointed
7 pursuant to subsection (b) or (c) of Section 32-8-34 as a
8 designated agent.

9 "b. A lienholder who appears on a certificate of
10 title.

11 "c. Other persons as prescribed by the department.

12 "~~(22)~~ (23) TRAVEL TRAILER. A vehicle without motive
13 power, designed and constructed as a camping vehicle or a
14 temporary dwelling, living, or sleeping place and designed to
15 be drawn or pulled on the highway, but not including folding
16 or collapsible camping trailers as defined in this section.

17 "~~(23)~~ (24) USED VEHICLE. A motor vehicle that has
18 been the subject of a first sale for use, whether within this
19 state or elsewhere or is being sold by a used motor vehicle
20 dealer as defined in Section 40-12-390.

21 "~~(24)~~ (25) UTILITY TRAILER. A vehicle without motive
22 power designed to be drawn by a passenger car or pickup truck,
23 including folding or collapsible camping trailers.

24 "~~(25)~~ (26) VEHICLE IDENTIFICATION NUMBER. The numbers
25 and letters on a motor vehicle designated by the manufacturer

1 or assigned by the department for the purpose of identifying
2 the motor vehicle."

3 "§32-8-3.

4 "(a) The department shall prescribe and provide
5 suitable forms of applications, certificates of title, notices
6 of security interests, and all other notices and forms
7 necessary to carry out the provisions of this chapter.

8 "(b) The department may do any of the following:

9 "(1) Make necessary investigations to procure
10 information required to carry out the provisions of this
11 chapter.

12 "(2) Adopt and enforce reasonable rules and
13 regulations to carry out the provisions of this chapter.

14 "(3) Assign a new identification number to a vehicle
15 if it has none, or its identification number is destroyed or
16 obliterated, or its motor is changed, and shall issue a new
17 certificate of title showing the new identification number.

18 "(4) Revoke the authority of a dealer or other
19 person appointed by the department to act as a designated
20 agent under this chapter and rules adopted thereunder when it
21 finds that the dealer or other person has failed to faithfully
22 perform his or her duties under this chapter or has been
23 convicted of violating any felony provisions of this chapter
24 or of Title 40.

1 "(5) Revoke the authority of a title service
2 provider to act as an agent on behalf of persons described in
3 subdivision (22) of Section 32-8-2 when it find that the title
4 service provider has failed to faithfully perform his or her
5 duties under this chapter and rules adopted thereunder or has
6 been convicted of violating any felony provisions of this
7 chapter or of Title 40.

8 "(c) The department, in accordance with applicable
9 privacy and confidentiality statutes, rules, and regulations,
10 may make available information concerning the status of a
11 title on any vehicle as reflected by the records in a manner
12 prescribed by the department. The department shall charge the
13 fees set forth in Section 32-8-6; provided, that no fee shall
14 be charged Alabama law enforcement agencies or law enforcement
15 agencies of any other state when that state furnishes like or
16 similar information without charge to the department or to
17 Alabama law enforcement agencies.

18 "(d) Whenever this chapter provides that a written
19 certificate or other document is to be filed with the
20 department, the commissioner may establish procedures for and
21 accept in lieu of such paper document a filing made by
22 electronic means. The department may also establish procedures
23 for the electronic transfer of title and the recording and
24 release of security interests. Such filing or transfer by

1 electronic means shall be accepted only if the content of the
2 filing satisfies all of the requirements of this chapter.

3 "§32-8-34.

4 "(a) Each judge of probate, commissioner of
5 licenses, director of revenue, or other county official in
6 this state authorized and required by law to issue motor
7 vehicle license plates shall by virtue of his or her office be
8 a designated agent of the department. Judges of probate,
9 commissioners of licenses, directors of revenue, or other
10 licensing officials may perform their duties under this
11 chapter either personally or through any of their deputies.

12 "(b) Every dealer, as defined in this chapter ~~or~~
13 ~~Chapter 20 of this title,~~ shall be a designated agent of the
14 department. The dealers ~~may~~ shall perform their duties under
15 this chapter ~~either~~ personally, ~~or~~ through any of their
16 officers or employees, or through a title service provider;
17 provided, that the dealer ~~or persons~~ shall enter into a bond
18 with a corporate surety authorized to do business in this
19 state as surety thereon, payable to the State of Alabama in a
20 sum as provided in Section 40-12-398, conditioned on the
21 faithful performance of their duties under this chapter. No
22 dealer appointed under this subsection as a designated agent
23 shall process title applications on behalf of another dealer
24 unless both dealerships are owned by the same entity.

1 "(c) The department may appoint other persons in
2 this state as its designated agents. Such agents shall perform
3 their duties under this chapter either personally, through any
4 of their officers or employees, or through a title service
5 provider. An appointee shall enter into a bond as provided in
6 subsection (b). Full-time bonded employees of the Department
7 of Revenue may serve as designated agents without additional
8 bond. A qualified designated agent of the department located
9 outside of this state may continue as a designated agent of
10 the department as long as he or she complies with the
11 requirements of this chapter.

12 "(d) Each title service provider shall enter into a
13 bond with a corporate surety authorized to do business in this
14 state as a surety, thereon payable to the state in a sum
15 provided in Section 40-12-398, conditioned on the faithful
16 performance of their duties under this chapter."

17 Section 2. This act shall become effective October
18 1, 2019, following its passage and approval by the Governor,
19 or upon its otherwise becoming law.

