

1 HB393
2 198537-6
3 By Representative Wood (R)
4 RFD: State Government
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1 "(a) Any person, including a motor vehicle dealer,
2 acquiring a new or used motor vehicle may be granted a grace
3 period of 20 calendar days from date of acquisition to procure
4 a license tag or plate.

5 "(b) ~~Notwithstanding Section 32-6-65,~~ a new or
6 used motor vehicle dealer who has a current regulatory license
7 required under this article and a dealer license as required
8 by Section 40-12-51 or Section 40-12-169 ~~and Section 40-12-391~~
9 may purchase dealer license plates from the ~~county license~~
10 ~~plate issuing official of the county in which the business is~~
11 ~~located~~ department upon presentation of the current licenses
12 ~~required under Section 40-12-391 and either Section 40-12-51~~
13 ~~or Section 40-12-169 from this state~~ and payment of the fee
14 for a private passenger automobile as provided in subdivision
15 (1) of Section 40-12-242 and subsection (a) of Section
16 40-12-273 per dealer plate. An additional ~~\$1.75~~ two dollar
17 (\$2) issuance fee shall also be collected, ~~which shall be~~
18 ~~deposited into the county general fund to be used exclusively~~
19 ~~for the operation of the issuing official's office~~ by the
20 department. A new or used motor vehicle dealer that has a
21 current regulatory license required under this article and a
22 dealer license as required by Sections Section 40-12-62 and
23 ~~40-12-391~~ may purchase motorcycle dealers' license plates from
24 the ~~county in which the business is located~~ department upon
25 presentation of current licenses ~~as provided in both Sections~~
26 ~~40-12-62 and 40-12-391 from this state~~ and payment of the
27 motorcycle registration fee as provided by subdivision (2) of

1 Section 40-12-242 and subsection (c) of Section 40-12-273 per
2 license plate. ~~The additional \$1.75~~ An additional two dollar
3 (\$2) issuance fee shall also be collected, ~~which shall be~~
4 ~~deposited into the county general fund to be used exclusively~~
5 ~~for the operation of the issuing official's office~~ by the
6 department. Dealer license plates and motorcycle dealer
7 license plates may only be used on motor vehicles owned by the
8 dealership and being held in the inventory of the dealer. The
9 number of dealer license plates is limited as follows:

10 "(1) A licensed new motor vehicle dealer may
11 purchase a maximum combined total of ~~25~~ 35 dealer and
12 motorcycle dealer license plates unless the dealer qualifies
13 for additional dealer license plates as provided for in
14 subdivision (3).

15 "(2) A licensed used motor vehicle dealer may
16 purchase a maximum combined total of ~~10~~ five dealer and
17 motorcycle dealer license plates unless the dealer qualifies
18 for additional dealer license plates as provided for in
19 subdivision (3).

20 "(3) Any licensed new or used motor vehicle dealer
21 who completes applications for certificates of title involving
22 title transfers for ~~1,500~~ 300 or more motor vehicles in this
23 state during the previous dealer regulatory license year may
24 purchase a combined total of not more than 25 additional
25 dealer and motorcycle dealer license plates.

26 "(c) Dealer license plates may be used by
27 prospective purchasers, owners, partners, corporate officers,

1 and employees of the dealership and only on vehicles owned by
2 the dealership and being held in the inventory of the dealer.
3 Dealer license plates shall not be used on vehicles that are
4 utilized by the dealership as rental or lease vehicles, tow
5 trucks, service trucks or vans, ~~and other service vehicles~~ or
6 for other commercial purposes. A prospective purchaser shall
7 be limited to 72 hours of use of dealer license plates. All
8 vehicles on temporary loan from a motor vehicle dealer to a
9 customer whose vehicle is being serviced or repaired by the
10 dealer or to a high school for the purpose of student driver
11 education shall be considered dealer demonstrator vehicles and
12 dealer license plates may be used on these vehicles provided a
13 fee is not charged by the dealer for the use.

14 "(d) Licensed new and used motor vehicle dealers
15 selling trucks or truck tractors with more than two axles on
16 the power unit or a gross weight exceeding 26,000 pounds shall
17 allow prospective purchasers to use dealer license plates for
18 one payload trip only, and that use shall not exceed 72 hours.
19 The dealer shall provide the prospective purchaser a permit
20 fully describing the vehicle by make, model, year, and vehicle
21 identification number. The permit shall contain the complete
22 name and address of the dealership and of the prospective
23 customer and shall clearly indicate the date and time the
24 permit was issued. The permit and dealer license plate shall
25 be issued only for demonstration purposes, and shall not be
26 issued by the dealer when a vehicle is loaned or rented to an
27 operator for any other purpose.

1 "(e) A licensed new or used motor vehicle dealer, ~~or~~
2 ~~wholesaler may purchase a maximum of 10~~ upon proper
3 application, may be issued a temporary seven-day dealer
4 transit license ~~plates~~ plate to be used on motor vehicles
5 being offered for sale to licensed motor vehicle dealers. The
6 temporary dealer transit license plate shall be issued in a
7 manner as prescribed by the department. ~~Dealer~~ Temporary
8 seven-day dealer transit license plates may be used by the new
9 or used motor vehicle dealer ~~or a wholesaler~~ to transport
10 vehicles within the inventory of the dealer ~~or wholesaler~~.
11 ~~Dealer~~ The temporary seven-day dealer transit license plates
12 shall not be used on service vehicles, ~~including~~ which include
13 tow trucks, ~~and~~ rental, ~~or~~ and lease vehicles, or used for
14 other commercial purposes. The fees for the seven-day dealer
15 transit license plates shall be the same as the fees provided
16 in subsection (b) for dealer license plates five dollars (\$5).

17 "(f) A motor vehicle wholesale auction, licensed
18 under Section 40-12-446, upon proper application, may be
19 issued a seven-day auction transit license plate to be used to
20 transport vehicles to and from the auction. The seven-day
21 auction transit license plate shall be issued in a manner as
22 prescribed by the department. The seven-day auction transit
23 license plate may not be used on service vehicles, which
24 include tow trucks and rental and lease vehicles, or used for
25 other commercial purposes. The fee for a seven-day auction
26 transit license plate shall be five dollars (\$5).

1 "~~(f)~~ (g) A licensed motor vehicle ~~rebuilder~~ dealer
2 may purchase a ~~maximum of 10~~ temporary seven-day dealer
3 transit license plates to be used in accordance with
4 subsection (a) of Section 32-8-87.

5 "~~(g)~~ (h) Any Notwithstanding Section 32-6-65, any
6 manufacturer of private passenger automobiles, motorcycles,
7 trucks, truck tractors, or trailers who has manufacturing
8 facilities located in this state and has a current
9 manufacturer's license as required by Section 40-12-87, may
10 procure manufacturer license plates from the ~~county license~~
11 ~~plate issuing official of the county in which the business is~~
12 ~~located~~ department upon payment of the private passenger
13 automobile or motorcycle fees per plate, as provided in
14 subdivision (1) or (2) of Section 40-12-242 and subsection (a)
15 or (c) of Section 40-12-273. ~~The additional one dollar~~
16 ~~seventy-five cents (\$1.75)~~ An additional two dollar (\$2)
17 issuance fee shall also be collected, ~~which shall be deposited~~
18 ~~into the county general fund to be used exclusively for the~~
19 ~~operation of the issuing official's office~~ by the department.
20 The word "manufacturer" shall appear on the license plates.
21 The license plates may be used for transporting and testing
22 new motor vehicles owned by the manufacturer.

23 "~~(h)~~ (i) The proceeds of the fees levied in this
24 section shall not be subject to proration. The registration
25 fees collected pursuant to this section for dealer license
26 plates and manufacturer license plates shall be distributed by
27 the ~~county license plate issuing officials~~ department in the

1 same manner as fees for private passenger automobiles and
2 motorcycles pursuant to Sections 40-12-269, 40-12-270, and
3 40-12-274. The five dollar (\$5) fee for the issuance of the
4 seven-day dealer transit plates and the seven-day auction
5 transit plates and the additional two dollar (\$2) issuance fee
6 for dealer license plates and manufacturer license plates
7 shall be retained by the department to offset the cost of
8 administering this article. The five dollar (\$5) fee and the
9 two dollar (\$2) issuance fee, in addition to all other
10 appropriations, shall be continuously appropriated to the
11 department. No fees provided in this section may be refunded.

12 ~~"(i)~~ (j) No motor vehicle ad valorem taxes,
13 registration fees imposed by local law, or issuance fees
14 imposed by local law shall be collected by the ~~county official~~
15 ~~who issues~~ department when issuing license plates pursuant to
16 this section. In addition, motor vehicle delinquency penalties
17 and interest fees shall not be applicable when issuing license
18 plates pursuant to this section.

19 "(k) No motor vehicle ad valorem taxes or sales tax
20 shall be collected by the local issuing official when a
21 standard plate is issued for a motor vehicle held in inventory
22 by a licensed new or used motor vehicle dealer.

23 ~~"(j)~~ (l) Any person to whom license plates are
24 issued under this section, upon forfeiture or revocation of
25 his or her license under Section 40-12-390, et seq., or upon
26 discontinuing business, shall surrender to the ~~issuing~~
27 ~~official~~ department all license plates issued within 10

1 calendar days from the date of forfeiture or revocation of
2 license or discontinuing business.

3 ~~"(k)~~ (m) Motor vehicle dealer, motorcycle dealer,
4 manufacturer, auction transit, or dealer transit license
5 plates may not be used in lieu of regular issued license
6 plates as a means of avoiding the registration and ad valorem
7 tax requirements of this chapter. Any person who willfully
8 ~~violates this section of law shall be subject to a Department~~
9 ~~of Revenue penalty~~ misuses or unlawfully acquires a license
10 plate issued under this section in a manner not authorized by
11 this section and rules adopted pursuant to this section shall
12 be subject to a penalty assessed by the department in the
13 amount of ~~one hundred dollars (\$100)~~ two hundred dollars
14 (\$200) for the first violation and five hundred dollars (\$500)
15 for each subsequent violation.

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

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

23 ~~"(n)~~ (p) Any person who makes willful misstatements
24 or files documents with erroneous information in order to
25 obtain motor vehicle dealer, motorcycle dealer, dealer
26 transit, auction transit, or manufacturer license plates shall
27 be guilty of a Class A misdemeanor subject to criminal

1 penalties as provided by law, and may be assessed a civil
2 penalty of one thousand dollars (\$1,000) by the department.

3 ~~"(o)~~ (q) A new or used motor vehicle dealer, motor
4 vehicle rebuilder, or motor vehicle wholesaler, licensed
5 pursuant to Section 40-12-51, 40-12-62, or 40-12-169 and
6 Section 40-12-391, or a manufacturer of private passenger
7 automobiles, motorcycles, trucks, truck tractors, or trailers,
8 ~~licensed pursuant to this section,~~ that is licensed pursuant
9 to Section 40-12-87, is prohibited from renewing his or her
10 licenses if the new or used motor vehicle dealer, motor
11 vehicle rebuilder, motor vehicle wholesaler, or manufacturer
12 fails to pay any outstanding liabilities resulting from the
13 assessment of penalties provided in this section.

14 "§40-12-390.

15 The following words and phrases, when used in this
16 article, shall have the following meanings:

17 "(1) COMMISSIONER. The state Commissioner of
18 Revenue.

19 "(2) DEPARTMENT. The Department of Revenue.

20 "~~(2)~~ (3) DISTRIBUTOR. Any person, ~~firm, or~~
21 ~~corporation~~ engaged in the business of selling or distributing
22 new motor vehicles to new motor vehicle dealers.

23 "(4) FACILITATOR. Any person or his or her designee
24 who facilitates an off-site sale licensed under Section
25 40-12-395. The term may include the owner of the property
26 where the off-site sale is being conducted.

1 "~~(3)~~ (5) MANUFACTURER. Any person, ~~firm, or~~
2 ~~corporation~~ engaged in the business of manufacturing or
3 assembling new and unused motor vehicles.

4 "(6) MASTER DEALER LICENSE. The license issued by
5 the department pursuant to this article.

6 "~~(4)~~ (7) MOTOR VEHICLE. Any motor vehicle as defined
7 in Section 40-12-240, but the term shall not include any
8 trailer not required to have a certificate of title.

9 "~~(5)~~ (8) MOTOR VEHICLE REBUILDER. Any person, ~~firm,~~
10 ~~or corporation~~ engaged in the business of making or causing to
11 be made extensive repairs, replacements, or combination of
12 different motor vehicles to the extent of extinguishing the
13 identity of the original vehicle to the extent that the
14 finished motor vehicle may be assigned a new identification to
15 be issued by the ~~Department of Revenue~~ department under ~~the~~
16 ~~provisions of~~ Chapter 8 of Title 32. The term also includes
17 any person, ~~firm, or corporation~~ engaged in the business of
18 refurbishing, repairing, or replacing damaged parts of motor
19 vehicles for the purpose of preparing the vehicle for resale
20 under the same identification and identity as the vehicle had
21 before the refurbishing.

22 "~~(6)~~ (9) MOTOR VEHICLE WHOLESALER. Any person, ~~firm,~~
23 ~~or corporation~~ engaged in the business of buying, selling, or
24 exchanging motor vehicles at wholesale to motor vehicle
25 dealers, as defined in this article, and not to the public.

26 "~~(7)~~ (10) NEW MOTOR VEHICLE. A motor vehicle, other
27 than a used motor vehicle, the legal title of which has never

1 been transferred by a manufacturer, distributor, or new motor
2 vehicle dealer to an ultimate purchaser.

3 "~~(8)~~ (11) NEW MOTOR VEHICLE DEALER. Any person,
4 ~~firm, or corporation~~ which holds a bona fide contract or
5 franchise in this state in effect with a manufacturer or
6 distributor of new motor vehicles and is engaged in the
7 business of selling, advertising, or negotiating the sale of
8 new motor vehicles or new and used motor vehicles, and the
9 duly licensed new motor vehicle dealers shall be the sole and
10 only persons, ~~firms, or corporations~~ entitled, other than in
11 connection with the rental or leasing of new motor vehicles by
12 persons engaged in the business of motor vehicle rental and
13 leasing, to sell and publicly or otherwise solicit and
14 advertise for sale new motor vehicles. The term also includes
15 a motor vehicle rebuilder and motor vehicle wholesaler as
16 defined in this article.

17 "~~(9)~~ (12) PERMANENT LOCATION. A building or
18 structure from which sales of motor vehicles are conducted. ~~A~~
19 ~~house used as a residence by the business owner, a partner, or~~
20 ~~a corporate officer from which sales of motor vehicles are~~
21 ~~conducted may also be a permanent location.~~ The building or
22 structure must be owned, rented, or leased and must be used as
23 an office and a place to receive mail, keep records, and
24 conduct routine business, to include ~~an operable telephone~~
25 ~~listed with the telephone company~~ utilities under the name of
26 the licensed business or the business owner.

27 "(13) PERSON. As defined in Section 40-12-240.

1 "~~(10)~~ (14) 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 "~~(11)~~ (15) 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, not previously titled or
9 registered in the person's name, at retail during a calendar
10 year, ~~whether or not the motor vehicles are owned by such~~
11 ~~person, firm, or corporation,~~ or in offering or displaying
12 motor vehicles for sale at retail to the public. The term
13 "selling" or "sale" shall include lease-purchase transactions.
14 The term "used motor vehicle dealer" does not include banks,
15 credit unions, licensees of the State Banking Department, and
16 finance companies which acquire motor vehicles as an incident
17 to their regular business and does not include motor vehicle
18 rental and leasing companies. The term also includes a motor
19 vehicle rebuilder and motor vehicle wholesaler as defined in
20 this article.

21 "~~(12)~~ (16) 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~~ The term does not include a
27 person, ~~firm, or corporation~~ who purchases a vehicle for

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

3 "§40-12-391.

4 "(a) No person shall be licensed as ~~an automobile a~~
5 motor vehicle dealer under ~~the provisions of~~ Section 40-12-51,
6 40-12-62, or 40-12-169, nor shall any person engage in
7 business as, serve in the capacity of, or act as a new motor
8 vehicle dealer, used motor vehicle dealer, motor vehicle
9 rebuilder, or motor vehicle wholesaler in this state, without
10 first obtaining a master dealer license as provided in this
11 article and, if a new motor vehicle dealer, or a used motor
12 vehicle dealer, a state sales 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 master dealer license as a new motor vehicle
17 dealer in this state for the make or makes of new motor
18 vehicles being bought, sold, exchanged, advertised, or
19 negotiated or unless a bona fide employee or agent of the
20 licensee.

21 "(c) No person, other than a motor vehicle dealer
22 licensed under this article or a recorded lienholder, may sell
23 a motor vehicle without being currently recorded as the owner
24 or lienholder on the certificate of title or designated as the
25 attorney-in-fact acting on behalf of the titled owner or
26 lienholder. If a person is not in compliance with this
27 subsection, any state or local licensing official or law

1 enforcement officer may impound the motor vehicle until the
2 person provides proper proof of ownership as the currently
3 recorded owner on the certificate of title or as the
4 attorney-in-fact acting on behalf of the titled owner, or as
5 otherwise prescribed by law. This subsection does not apply to
6 abandoned motor vehicles sold under Chapter 13 of Title 32.

7 "~~(c)~~ (d) Notwithstanding any law of this state
8 providing otherwise, neither a new motor vehicle dealer nor a
9 used motor vehicle dealer nor any person engaged in the
10 business of motor vehicle rental and leasing:

11 "(1) With respect to a credit sale transaction, is
12 required to be licensed under Chapter 19 of Title 5 in order
13 to pay any amount necessary to satisfy a lease on, security
14 interest in, or lien on any motor vehicle either returned to
15 that dealer or to the lessor or traded in by the purchaser in
16 connection with the credit sale transaction, and to include
17 that amount as part of the amount to be paid by the purchaser
18 under the credit sale transaction; or

19 "(2) With respect to a lease transaction, is subject
20 to Chapter 19 of Title 5 or otherwise deemed to have made a
21 loan or credit sale by virtue of paying any amount necessary
22 to satisfy a lease on, security interest in, or lien on any
23 motor vehicle either returned to that dealer or to the
24 original lessor or traded in by the lessee in connection with
25 the lease transaction, and including that amount as part of
26 the amount to be paid by the lessee under the lease
27 transaction.

1 "§40-12-392.

2 "(a) The application for a master dealer license
3 shall be in such form and shall be subject to such rules and
4 regulations as may be prescribed by the commissioner. An
5 application shall be verified by the oath or affirmation of
6 the applicant. If the applicant is a sole proprietorship, the
7 application shall contain the name and residence of the
8 applicant. If the applicant is a partnership, the application
9 shall contain the names and residences of each partner. If the
10 applicant is a corporation, the application shall contain the
11 names and residences of the officers and directors. If the
12 applicant is a new motor vehicle dealer, or used motor vehicle
13 dealer in this state, the application shall contain the state
14 sales tax number assigned to the applicant. The application
15 shall enumerate the number of new and used vehicles sold
16 during the previous calendar year; describe the exact location
17 of the place of business, and shall state: That the location
18 is a permanent one; that the location affords sufficient space
19 upon and within which to adequately display one or more motor
20 vehicles offered for sale and that an appropriate sign
21 designates the location as being the place of business of a
22 motor vehicle dealer; that it is a suitable place from which
23 the applicant can in good faith carry on such business and
24 keep and maintain books and records necessary to conduct
25 business, which shall be available at all reasonable hours for
26 inspection by the commissioner. The application shall state
27 that the applicant is either (i) franchised by a manufacturer

1 of motor vehicles, and, if so, the name of the manufacturer
2 and line make that the applicant is authorized to represent,
3 or (ii) a used motor vehicle dealer, rebuilder, or wholesaler.
4 Upon making application, the person applying shall pay an
5 application fee of as prescribed by the commissioner of
6 twenty-five dollars (\$25) through September 30, 2020.
7 Effective October 1, 2020, the application fee shall be
8 calculated pursuant to Section 3 2 of this act to the
9 commissioner and shall be in addition to other fees required
10 by law. The commissioner may cause an investigation to be made
11 and upon being satisfied that the facts set forth in the
12 application are true, shall issue a master dealer license
13 certificate to the applicant, which shall entitle the licensee
14 to operate as a motor vehicle dealer, rebuilder, ~~or~~ and
15 wholesaler for one year from the first day of October of each
16 year. If the commissioner, upon investigation, determines that
17 a master dealer license should not be issued, the commissioner
18 may deny the license and the applicant may appeal the denial
19 to the Alabama Tax Tribunal as allowed in Chapter 2A of this
20 title.

21 "(b) Every master dealer license issued under this
22 article shall be valid for one year from the first day of
23 October of each year and shall be renewed on October 1 each
24 year. Thirty days of grace for obtaining the license shall be
25 allowed without penalty. Thereafter, penalties prescribed
26 under this article for delinquent licenses shall be imposed.

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

10 ~~"(c) A motor vehicle rebuilder or motor vehicle~~
11 ~~wholesaler may not sell any motor vehicles or component parts~~
12 ~~to anyone other than a licensed motor vehicle dealer, motor~~
13 ~~vehicle wholesaler, or motor vehicle rebuilder, or as salvage.~~

14 ~~"(d)~~ (c) New and used motor vehicle dealers, motor
15 vehicle rebuilders, and motor vehicle wholesalers shall be
16 required to maintain blanket motor vehicle liability insurance
17 coverage on vehicles operated on the public streets and
18 highways of this state, including vehicles in dealership
19 inventory. Evidence of liability insurance for business and
20 inventory vehicles shall be filed with the application for
21 license, and the application for license shall be denied if
22 proof of liability insurance satisfactory to the commissioner
23 is not provided. A licensee who fails to maintain a blanket
24 motor vehicle liability insurance policy during the licensing
25 period may be assessed a civil penalty of up to five thousand
26 dollars (\$5,000). The penalty may be assessed against the bond
27 as provided for in Section 40-12-398.

1 "(d) A person who is subject to the licensing
2 requirements of this article, but willfully fails to acquire
3 the license, shall be subject to a penalty of five hundred
4 dollars (\$500) for the first violation and one thousand
5 dollars (\$1,000) for the second or subsequent violation.

6 "§40-12-393.

7 "The commissioner shall deposit the application fees
8 collected under the provisions of this article ~~in~~ into the
9 State Treasury, which shall be appropriated as follows:

10 "(1) A minimum of twenty-five dollars (\$25) or 10
11 percent, whichever is greater, of the application fee shall be
12 appropriated to the General Fund of the state.

13 "(2) The remaining amount shall be continuously
14 appropriated to the department for the inspection, issuance,
15 and enforcement of the licensing requirements under this
16 article.

17 "§40-12-395.

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

26 "(b) Notwithstanding the requirement that sales of
27 new and used motor vehicles shall be made only from the

1 permanent location of the new or used motor vehicle dealer,
2 such dealers may conduct sales of new and used motor vehicles
3 from locations off-site of their permanent locations on the
4 following conditions:

5 "(1) The off-site sales events shall not exceed
6 three per dealer per license year with each sale not to exceed
7 10 consecutive calendar days in duration. Off-site sales of
8 new motor vehicles by new motor vehicle dealers shall be
9 conducted only at a location within the new motor vehicle
10 dealer's area of responsibility as defined in the contract or
11 franchise agreement between the new motor vehicle dealer and
12 its manufacturer or distributor. Off-site sales of used motor
13 vehicles shall be conducted only at a location in the county
14 or city where the new or used motor vehicle dealer maintains a
15 permanent location.

16 "(2) The off-site sale need not be conducted in a
17 building or permanent structure, but the ~~motor vehicle dealer~~
18 facilitator shall display a temporary sign at the location
19 where the off-site sale is conducted identifying the name of
20 the ~~motor vehicle dealer~~ facilitator who is conducting the
21 sale as stated on the license required by ~~this section~~
22 subdivision (3) and the name of the motor vehicle dealers who
23 are participating in the sale as stated on the license
24 required by subdivision (4). All advertisements and other
25 notices of the sale must be conducted in the name of the
26 ~~licensee~~ facilitator.

1 "(3)a. At least 10 calendar days before conducting
2 each off-site sale, the facilitator of the off-site sale shall
3 obtain a master off-site sale license by making a license
4 application to the commissioner and paying an application fee
5 of twenty-five dollars (\$25) for each off-site sale. On the
6 application, the facilitator shall list each participating
7 motor vehicle dealer and the participating motor vehicle
8 dealer's off-site sale license number, as required in
9 subdivision (4). The off-site sale license required in
10 subdivision (4) is not required if the facilitator and motor
11 vehicle dealer are the same entity. Each motor vehicle dealer
12 participating in the off-site sale shall obtain an off-site
13 license required by subdivision (4) and provide the license to
14 the facilitator prior to the facilitator making the
15 application.

16 "b. The failure of a facilitator to disclose
17 participating motor vehicle dealers shall subject the
18 facilitator to the following penalties:

19 "1. A facilitator that is a bonded agent of the
20 state and in violation of this section shall be subject to a
21 statutory notice of non-compliance. Subsequent violations may
22 result in the suspension or revocation of designated agent
23 status pursuant to Section 32-8-3 and rules adopted under that
24 section.

25 "2. A facilitator that is not a bonded agent of the
26 state that is in violation of this section shall be subject to

1 the penalty provisions as provided in subsection (d) of
2 Section 40-12-392.

3 ~~"(3)(4)~~ At least one calendar day 10 calendar days
4 before conducting each off-site sale, the motor vehicle dealer
5 shall obtain an off-site sale license by making license
6 application to the commissioner and paying an application fee
7 of twenty-five dollars (\$25) for each off-site sale to be
8 conducted. If more than one motor vehicle dealer participates
9 in the same off-site sale, each motor vehicle dealer
10 participating in the sale shall obtain an off-site sale
11 license from the commissioner.

12 "(c) In addition to the foregoing, the motor vehicle
13 dealer shall obtain from the judge of probate or other county
14 licensing official a county license for the off-site location
15 by paying the county license tax imposed pursuant to ~~Section~~
16 Sections 40-12-51, 40-12-62, and 40-12-169, and shall provide
17 to the commissioner proof of payment of the license upon
18 application for each off-site sale. If more than one motor
19 vehicle dealer participates in the same off-site sale, each
20 motor vehicle dealer participating in the sale shall obtain
21 from the judge of probate or other county licensing official a
22 county license for the off-site location by paying the county
23 license tax imposed pursuant to ~~Section~~ Sections 40-12-51,
24 40-12-62, and 40-12-169.

25 "(d) For purposes of this section, a new motor
26 vehicle dealer temporarily displaying new vehicles at a
27 shopping mall, auto show, or other location solely for

1 advertising or display purposes and from which location sales
2 are not conducted, shall not be deemed to be conducting an
3 off-site sale and no off-site sales license shall be required.

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

10 "§40-12-398.

11 "Before any master dealer license ~~shall~~ may be
12 issued to a new motor vehicle dealer, used motor vehicle
13 dealer, motor vehicle rebuilder, or motor vehicle wholesaler,
14 the applicant shall deliver to the commissioner a good and
15 sufficient surety bond, executed by the applicant as principal
16 and by a corporate surety company qualified to do business in
17 the state as surety, in the sum of ~~twenty-five thousand~~
18 ~~dollars (\$25,000)~~ not less than fifty thousand dollars
19 (\$50,000) or an amount as prescribed by the department. Such
20 bond shall be in a form to be approved by the commissioner,
21 and shall be conditioned that the motor vehicle dealer, motor
22 vehicle rebuilder, or motor vehicle wholesaler shall comply
23 with the conditions of any contract made by such dealer in
24 connection with the sale or exchange of any motor vehicle and
25 shall not violate any of the provisions of law relating to the
26 conduct of the business for which he is licensed. Such bond
27 shall be payable to the commissioner and to his successors in

1 office, and shall be in favor of any person who shall recover
2 any judgment for any loss as a result of any violation of the
3 conditions hereinabove contained. The bond shall serve in lieu
4 of the bond provided for in subsection (b) of Section 32-8-34
5 and, in addition to all other conditions, shall also be
6 conditioned upon their performance of their duties as a
7 designated agent under Chapter 8 of Title 32. The penalty
8 provisions provided under this article, in addition to the tax
9 liability incurred under Chapter 23 of this title on the sale
10 of a motor vehicle, may be assessed against the bond."

11 Section 2. (a) Beginning October 1, 2020, the
12 application fee prescribed in Section 40-12-392, Code of
13 Alabama 1975, shall be equal to the average of the annual
14 dealer license fees, as of January 1, 2020, of the contiguous
15 states to Alabama and shall be rounded to the nearest
16 twenty-five dollars (\$25). The Department of Revenue may
17 adjust these fees once every five years thereafter using the
18 same calculation; provided, the adjusted fee may not exceed
19 the application fee provided under Section 40-12-413, Code of
20 Alabama 1975.

21 (b) On or after October 1, 2022, the Department of
22 Revenue, by rule, may establish a bi-annual license in lieu of
23 the annual license provided under Section 40-12-391, Code of
24 Alabama 1975. The application fee for the bi-annual license
25 may not exceed double the amount charged for the application
26 fee or for the annual license.

1 Section 3. Article 10, commencing with Section
2 40-12-445, is added to Chapter 12 of Title 40, Code of Alabama
3 1975, to read as follows:

4 §40-12-445.

5 As used in this article, the following words shall
6 have the following meanings:

7 (1) AUTOMOTIVE DISMANTLER AND PARTS RECYCLER. As
8 defined in Section 40-12-410.

9 (2) COMMISSIONER. The Commissioner of Revenue.

10 (3) DEPARTMENT. The Department of Revenue.

11 (4) MOTOR VEHICLE. As defined in Section 40-12-390.

12 (5) MOTOR VEHICLE REBUILDER. As defined in Section
13 40-12-390.

14 (6) NEW MOTOR VEHICLE DEALER. As defined in Section
15 40-12-390.

16 (7) PERSON. As defined in Section 40-12-240.

17 (8) PLACE OF BUSINESS. The place owned or leased and
18 regularly occupied by a person for the principal purpose of
19 engaging in the business of a wholesale motor vehicle auction
20 from which the wholesale of motor vehicles is conducted and
21 where the books and records required for the conduct of
22 business are maintained and kept.

23 (9) USED MOTOR VEHICLE DEALER. As defined in Section
24 40-12-390.

25 (10) MOTOR VEHICLE WHOLESALE AUCTION. Any person
26 engaged in the business of buying, selling, exchanging, or
27 facilitating the sale of motor vehicles at wholesale to new or

1 used motor vehicle dealers ~~and,~~ automotive dismantler and
2 parts recyclers, and secondary metals recyclers as defined in
3 Section 13A-8-30, and not to the public.

4 §40-12-446.

5 (a) A person may not engage in the business of a
6 motor vehicle wholesale auction unless the person is licensed
7 under this article by the department.

8 (b) A person desiring to engage in the business of a
9 motor vehicle wholesale auction shall apply to the department
10 on a form prescribed by the department. The form shall contain
11 all of the following:

12 (1) The legal name of the applicant.

13 (2) The street address of the applicant's principal
14 place of business.

15 (3) The street address of the applicant's
16 headquarters, if different from the applicant's principal
17 place of business.

18 (4) Any additional information as may be required by
19 the department.

20 (c) A motor vehicle wholesale auction shall be
21 required to maintain books, records, and files that shall be
22 accessible and available for inspection by the department
23 during normal business hours on usual business days. The
24 department, by rule, shall establish electronic reporting
25 requirements regarding the sale of motor vehicles at the motor
26 vehicle wholesale auction.

1 (d) Every licensee under this article shall keep
2 books and records in a form prescribed by the department. The
3 books and records shall include purchases, sales or exchanges,
4 and receipts of every motor vehicle purchased or sold or held
5 for sale at the location of the licensee. In addition, the
6 books and records shall include a description of each motor
7 vehicle, which shall include the vehicle identification number
8 of each motor vehicle, together with the name and address of
9 any seller or purchaser of the motor vehicle.

10 (e) A motor vehicle wholesale auction may not sell a
11 motor vehicle or component parts to anyone other than a
12 licensed new or used motor vehicle dealer, ~~motor vehicle~~
13 ~~wholesaler, or motor vehicle rebuilder~~ automotive dismantler
14 and parts recycler, secondary metals recycler as defined in
15 Section 13A-8-30, or a person with an equivalent license from
16 another jurisdiction.

17 §40-12-447.

18 (a) An application for a license as a motor vehicle
19 wholesale auction shall be accompanied by a state privilege
20 license fee equal to the fee levied under Section 40-12-392
21 and any additional fee for issuing licenses as may be
22 otherwise prescribed by law.

23 (b) A privilege license issued to a motor vehicle
24 wholesale auction under this article shall be valid for one
25 year from the first day of October and shall be renewed on
26 October 1 of each year. Thirty days of grace for obtaining the
27 license shall be allowed without penalty. Thereafter,

1 penalties prescribed under this article for delinquent
2 licenses shall be imposed.

3 §40-12-448.

4 (a) Except as provided in subsection (b), before
5 being licensed under this article, a person shall demonstrate
6 proof of responsibility by depositing with the commissioner a
7 continuing surety bond in the amount prescribed under Section
8 40-12-398 from a company authorized to do business in the
9 state. The bond must be approved by the commissioner, payable
10 to the state, and conditioned upon the faithful observance of
11 all the provisions of this article. The bond must also
12 indemnify any person who suffers a loss by reason of failure
13 to observe the provisions of this article.

14 (b) The department, by rule, may permit a surety
15 bond obtained under Section 40-12-398 to serve in lieu of the
16 surety bond prescribed in subsection (a).

17 §40-12-449.

18 (a) Subject to the appeal provisions allowed under
19 Chapter 2A of this title, the commissioner may suspend or
20 revoke a license issued for the willful and intentional
21 failure of the licensee to comply with this article.

22 (b) A license may be revoked or a license
23 application may be denied by the department for any of the
24 following reasons:

25 (1) Fraud practiced or any material misstatement in
26 the license application.

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

3 ~~(3) Skipping title assignment; Accepting open~~
4 ~~assignment of title or bill of sale for a motor vehicle which~~
5 ~~is not completed by identifying the licensee as the purchaser~~
6 ~~or assignee of the motor vehicle.~~

7 (3) Skipping title assignment; Accepting an open
8 assignment of title whereby the seller has signed the title to
9 transfer ownership without listing the purchaser in the title
10 assignment.

11 (4) Having no established place of business.

12 (5) Failing to properly keep and maintain records.

13 (6) Knowingly dealing in stolen motor vehicles,
14 parts, or accessories.

15 (7) Willful failure to comply with this article or
16 any rule adopted under this article.

17 (8) Disconnecting, turning back, or resetting the
18 odometer of a motor vehicle in violation of state or federal
19 law.

20 (9) Filing a materially erroneous or fraudulent tax
21 return with the department.

22 (10) Revocation as a designated agent, as provided
23 in Section 32-8-34, for failing to faithfully perform his or
24 her duties as a designated agent.

25 (c) Subject to the notice and appeal provisions
26 under Chapter 2A of this title, the commissioner may do any of
27 the following:

1 (1) Refuse to license a person who does not meet the
2 requirements of this article.

3 (2) Cancel the license of a licensee for willful
4 failure to continue to meet the requirements of this article.

5 (3) Refuse, cancel, or revoke a license for a state
6 or federal felony conviction involving theft or for a
7 violation of Chapter 8 of Title 32, relating to the Uniform
8 Certificate of Title and Antitheft Act, or a similar law of
9 another state by an applicant; a licensee; a partner of an
10 applicant; or, in the case of a corporate applicant or
11 licensee, a director or manager of the licensee.

12 §40-12-450.

13 A person who violates this article is guilty of a
14 Class A misdemeanor. In addition, the department may assess
15 against the person a civil penalty of up to five thousand
16 dollars (\$5,000). The penalty may be assessed against the bond
17 as provided for in Section 40-12-398.

18 Section 4. Although this bill would have as its
19 purpose or effect the requirement of a new or increased
20 expenditure of local funds, the bill is excluded from further
21 requirements and application under Amendment 621, now
22 appearing as Section 111.05 of the Official Recompilation of
23 the Constitution of Alabama of 1901, as amended, because the
24 bill defines a new crime or amends the definition of an
25 existing crime.

26 Section 5. Section 2 of this act shall become
27 effective on the first day of the third month following its

1 passage and approval by the Governor, or its otherwise
2 becoming law. The remaining sections of this act shall become
3 effective October 1, 2020, following its passage and approval
4 by the Governor, or its otherwise becoming law.

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House of Representatives

Read for the first time and re-
ferred to the House of Representa-
tives committee on State Government
..... 09-APR-19

Read for the second time and placed
on the calendar 1 amendment 18-APR-19

Read for the third time and passed
as amended..... 23-APR-19

Yeas 98, Nays 1, Abstains 0

Jeff Woodard
Clerk