

1 HB393
2 198537-7
3 By Representative Wood (R)
4 RFD: State Government
5 First Read: 09-APR-19

1
2 ENROLLED, An Act,

3 Relating to motor vehicle dealer licensing; to amend
4 Sections 40-12-264, 40-12-390, 40-12-391, 40-12-392,
5 40-12-393, 40-12-395, and 40-12-398, to create a master
6 regulatory dealer license and provide for an adjustment to the
7 license fee; to increase the civil penalty authorized for a
8 violation; to add Article 10, commencing with Section
9 40-12-445, to Chapter 12 of Title 40, Code of Alabama 1975, to
10 create a wholesale motor vehicle auction license; to provide a
11 criminal penalty for a violation; and in connection therewith
12 would have as its purpose or effect the requirement of a new
13 or increased expenditure of local funds within the meaning of
14 Amendment 621 of the Constitution of Alabama of 1901, now
15 appearing as Section 111.05 of the Official Recompilation of
16 the Constitution of Alabama of 1901, as amended.

17 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

18 Section 1. Sections 40-12-264, 40-12-390, 40-12-391,
19 40-12-392, 40-12-393, 40-12-395, and 40-12-398, Code of
20 Alabama 1975, are amended to read as follows:

21 "§40-12-264.

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

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

1 ~~(\$2) issuance fee shall also be collected, which shall be~~
2 ~~deposited into the county general fund to be used exclusively~~
3 ~~for the operation of the issuing official's office by the~~
4 department. Dealer license plates and motorcycle dealer
5 license plates may only be used on motor vehicles owned by the
6 dealership and being held in the inventory of the dealer. The
7 number of dealer license plates is limited as follows:

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

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

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

24 "(c) Dealer license plates may be used by
25 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

1 issued by the dealer when a vehicle is loaned or rented to an
2 operator for any other purpose.

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

19 "(f) A motor vehicle wholesale auction, licensed
20 under Section 40-12-446, upon proper application, may be
21 issued a seven-day auction transit license plate to be used to
22 transport vehicles to and from the auction. The seven-day
23 auction transit license plate shall be issued in a manner as
24 prescribed by the department. The seven-day auction transit
25 license plate may not be used on service vehicles, which

1 include tow trucks and rental and lease vehicles, or used for
2 other commercial purposes. The fee for a seven-day auction
3 transit license plate shall be five dollars (\$5).

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

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

1 "~~(h)~~ (i) The proceeds of the fees levied in this
2 section shall not be subject to proration. The registration
3 fees collected pursuant to this section for dealer license
4 plates and manufacturer license plates shall be distributed by
5 the ~~county license plate issuing officials~~ department in the
6 same manner as fees for private passenger automobiles and
7 motorcycles pursuant to Sections 40-12-269, 40-12-270, and
8 40-12-274. The five dollar (\$5) fee for the issuance of the
9 seven-day dealer transit plates and the seven-day auction
10 transit plates and the additional two dollar (\$2) issuance fee
11 for dealer license plates and manufacturer license plates
12 shall be retained by the department to offset the cost of
13 administering this article. The five dollar (\$5) fee and the
14 two dollar (\$2) issuance fee, in addition to all other
15 appropriations, shall be continuously appropriated to the
16 department. No fees provided in this section may be refunded.

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

24 "(k) No motor vehicle ad valorem taxes or sales tax
25 shall be collected by the local issuing official when a

1 standard plate is issued for a motor vehicle held in inventory
2 by a licensed new or used motor vehicle dealer.

3 ~~"(j)~~ (l) Any person to whom license plates are
4 issued under this section, upon forfeiture or revocation of
5 his or her license under Section 40-12-390, et seq., or upon
6 discontinuing business, shall surrender to the ~~issuing~~
7 ~~official~~ department all license plates issued within 10
8 calendar days from the date of forfeiture or revocation of
9 license or discontinuing business.

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

23 ~~"(l)~~ (n) A licensed new or used motor vehicle dealer
24 shall register any motor vehicle and purchase an Alabama

1 license plate of the proper classification for any motor
2 vehicle withdrawn from the inventory of the dealer.

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

6 ~~"(n)~~ (p) Any person who makes willful misstatements
7 or files documents with erroneous information in order to
8 obtain motor vehicle dealer, motorcycle dealer, dealer
9 transit, auction transit, or manufacturer license plates shall
10 be guilty of a Class A misdemeanor subject to criminal
11 penalties as provided by law, and may be assessed a civil
12 penalty of one thousand dollars (\$1,000) by the department.

13 ~~"(o)~~ (q) A new or used motor vehicle dealer, motor
14 vehicle rebuilder, or motor vehicle wholesaler, licensed
15 pursuant to Section 40-12-51, 40-12-62, or 40-12-169 and
16 Section 40-12-391, or a manufacturer of private passenger
17 automobiles, motorcycles, trucks, truck tractors, or trailers,
18 ~~licensed pursuant to this section,~~ that is licensed pursuant
19 to Section 40-12-87, is prohibited from renewing his or her
20 licenses if the new or used motor vehicle dealer, motor
21 vehicle rebuilder, motor vehicle wholesaler, or manufacturer
22 fails to pay any outstanding liabilities resulting from the
23 assessment of penalties provided in this section.

24 "§40-12-390.

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

3 "(1) COMMISSIONER. The state Commissioner of
4 Revenue.

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

6 "~~(2)~~ (3) DISTRIBUTOR. Any person, ~~firm, or~~
7 ~~corporation~~ engaged in the business of selling or distributing
8 new motor vehicles to new motor vehicle dealers.

9 "(4) FACILITATOR. Any person or his or her designee
10 who facilitates an off-site sale licensed under Section
11 40-12-395. The term may include the owner of the property
12 where the off-site sale is being conducted.

13 "~~(3)~~ (5) MANUFACTURER. Any person, ~~firm, or~~
14 ~~corporation~~ engaged in the business of manufacturing or
15 assembling new and unused motor vehicles.

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

18 "~~(4)~~ (7) MOTOR VEHICLE. Any motor vehicle as defined
19 in Section 40-12-240, but the term shall not include any
20 trailer not required to have a certificate of title.

21 "~~(5)~~ (8) MOTOR VEHICLE REBUILDER. Any person, ~~firm,~~
22 ~~or corporation~~ engaged in the business of making or causing to
23 be made extensive repairs, replacements, or combination of
24 different motor vehicles to the extent of extinguishing the
25 identity of the original vehicle to the extent that the

1 finished motor vehicle may be assigned a new identification to
2 be issued by the ~~Department of Revenue~~ department under ~~the~~
3 ~~provisions of~~ Chapter 8 of Title 32. The term also includes
4 any person, ~~firm, or corporation~~ engaged in the business of
5 refurbishing, repairing, or replacing damaged parts of motor
6 vehicles for the purpose of preparing the vehicle for resale
7 under the same identification and identity as the vehicle had
8 before the refurbishing.

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

13 "~~(7)~~ (10) NEW MOTOR VEHICLE. A motor vehicle, other
14 than a used motor vehicle, the legal title of which has never
15 been transferred by a manufacturer, distributor, or new motor
16 vehicle dealer to an ultimate purchaser.

17 "~~(8)~~ (11) NEW MOTOR VEHICLE DEALER. Any person, ~~7~~
18 ~~firm, or corporation~~ which holds a bona fide contract or
19 franchise in this state in effect with a manufacturer or
20 distributor of new motor vehicles and is engaged in the
21 business of selling, advertising, or negotiating the sale of
22 new motor vehicles or new and used motor vehicles, and the
23 duly licensed new motor vehicle dealers shall be the sole and
24 only persons, ~~firms, or corporations~~ entitled, other than in
25 connection with the rental or leasing of new motor vehicles by

1 persons engaged in the business of motor vehicle rental and
2 leasing, to sell and publicly or otherwise solicit and
3 advertise for sale new motor vehicles. The term also includes
4 a motor vehicle rebuilder and motor vehicle wholesaler as
5 defined in this article.

6 ~~"(9)~~ (12) PERMANENT LOCATION. A building or
7 structure from which sales of motor vehicles are conducted. ~~A~~
8 ~~house used as a residence by the business owner, a partner, or~~
9 ~~a corporate officer from which sales of motor vehicles are~~
10 ~~conducted may also be a permanent location.~~ The building or
11 structure must be owned, rented, or leased and must be used as
12 an office and a place to receive mail, keep records, and
13 conduct routine business, to include ~~an operable telephone~~
14 ~~listed with the telephone company~~ utilities under the name of
15 the licensed business or the business owner.

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

17 ~~"(10)~~ (14) USED MOTOR VEHICLE. A motor vehicle, the
18 legal title of which has been transferred by a manufacturer,
19 distributor, or new motor vehicle dealer to an ultimate
20 purchaser.

21 ~~"(11)~~ (15) USED MOTOR VEHICLE DEALER. Any person,
22 ~~firm, or corporation~~ engaged in the business of buying,
23 selling, exchanging, advertising, or negotiating the sale of
24 five or more motor vehicles, not previously titled or
25 registered in the person's name, at retail during a calendar

1 ~~year, whether or not the motor vehicles are owned by such~~
2 ~~person, firm, or corporation,~~ or in offering or displaying
3 motor vehicles for sale at retail to the public. The term
4 "selling" or "sale" shall include lease-purchase transactions.
5 The term "used motor vehicle dealer" does not include banks,
6 credit unions, licensees of the State Banking Department, and
7 finance companies which acquire motor vehicles as an incident
8 to their regular business and does not include motor vehicle
9 rental and leasing companies. The term also includes a motor
10 vehicle rebuilder and motor vehicle wholesaler as defined in
11 this article.

12 ~~"(12)~~ (16) ULTIMATE PURCHASER. With respect to a new
13 motor vehicle, the first person, ~~firm, or corporation,~~ other
14 than a new motor vehicle dealer purchasing in his or her
15 capacity as a new motor vehicle dealer, who in good faith
16 purchases the new motor vehicle for purposes other than
17 resale. ~~Ultimate purchaser shall~~ The term does not include a
18 person, ~~firm, or corporation~~ who purchases a vehicle for
19 purposes of altering or remanufacturing the motor vehicle for
20 future resale.

21 "§40-12-391.

22 "(a) No person shall be licensed as ~~an automobile a~~
23 motor vehicle dealer under ~~the provisions of~~ Section 40-12-51,
24 40-12-62, or 40-12-169, nor shall any person engage in
25 business as, serve in the capacity of, or act as a new motor

1 vehicle dealer, used motor vehicle dealer, motor vehicle
2 rebuilder, or motor vehicle wholesaler in this state, without
3 first obtaining a master dealer license as provided in this
4 article and, if a new motor vehicle dealer, or a used motor
5 vehicle dealer, a state sales tax number.

6 "(b) No person, ~~firm, or corporation~~ shall engage in
7 the business of buying, selling, exchanging, advertising, or
8 negotiating the sale of new motor vehicles unless he or she
9 holds a valid master dealer license as a new motor vehicle
10 dealer in this state for the make or makes of new motor
11 vehicles being bought, sold, exchanged, advertised, or
12 negotiated or unless a bona fide employee or agent of the
13 licensee.

14 "(c) No person, other than a motor vehicle dealer
15 licensed under this article or a recorded lienholder, may sell
16 a motor vehicle without being currently recorded as the owner
17 or lienholder on the certificate of title or designated as the
18 attorney-in-fact acting on behalf of the titled owner or
19 lienholder. If a person is not in compliance with this
20 subsection, any state or local licensing official or law
21 enforcement officer may impound the motor vehicle until the
22 person provides proper proof of ownership as the currently
23 recorded owner on the certificate of title or as the
24 attorney-in-fact acting on behalf of the titled owner, or as

1 otherwise prescribed by law. This subsection does not apply to
2 abandoned motor vehicles sold under Chapter 13 of Title 32.

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

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

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

24 "§40-12-392.

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

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

22 "(b) Every master dealer license issued under this
23 article shall be valid for one year from the first day of
24 October of each year and shall be renewed on October 1 each
25 year. Thirty days of grace for obtaining the license shall be

1 allowed without penalty. Thereafter, penalties prescribed
2 under this article for delinquent licenses shall be imposed.

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

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

16 ~~"(d)~~ (c) New and used motor vehicle dealers, motor
17 vehicle rebuilders, and motor vehicle wholesalers shall be
18 required to maintain blanket motor vehicle liability insurance
19 coverage on vehicles operated on the public streets and
20 highways of this state, including vehicles in dealership
21 inventory. Evidence of liability insurance for business and
22 inventory vehicles shall be filed with the application for
23 license, and the application for license shall be denied if
24 proof of liability insurance satisfactory to the commissioner
25 is not provided. A licensee who fails to maintain a blanket

1 motor vehicle liability insurance policy during the licensing
2 period may be assessed a civil penalty of up to five thousand
3 dollars (\$5,000). The penalty may be assessed against the bond
4 as provided for in Section 40-12-398.

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

10 "§40-12-393.

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

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

17 "(2) The remaining amount shall be continuously
18 appropriated to the department for the inspection, issuance,
19 and enforcement of the licensing requirements under this
20 article.

21 "§40-12-395.

22 "(a) A person licensed under this article shall
23 obtain a supplemental license for each additional place of
24 business, in a manner as prescribed by the commissioner and
25 upon payment of an additional application fee of five dollars

1 (\$5) for each additional location. The signage and other
2 requirements of Section 40-12-392 shall apply to each
3 additional place of business. Only one licensed dealer shall
4 operate at the same place of business.

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

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

22 "(2) The off-site sale need not be conducted in a
23 building or permanent structure, but the ~~motor vehicle dealer~~
24 facilitator shall display a temporary sign at the location
25 where the off-site sale is conducted identifying the name of

1 the ~~motor vehicle dealer~~ facilitator who is conducting the
2 sale as stated on the license required by ~~this section~~
3 subdivision (3) and the name of the motor vehicle dealers who
4 are participating in the sale as stated on the license
5 required by subdivision (4). All advertisements and other
6 notices of the sale must be conducted in the name of the
7 ~~licensee~~ facilitator.

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

23 "b. The failure of a facilitator to disclose
24 participating motor vehicle dealers shall subject the
25 facilitator to the following penalties:

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

7 "2. A facilitator that is not a bonded agent of the
8 state that is in violation of this section shall be subject to
9 the penalty provisions as provided in subsection (d) of
10 Section 40-12-392.

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

20 "(c) In addition to the foregoing, the motor vehicle
21 dealer shall obtain from the judge of probate or other county
22 licensing official a county license for the off-site location
23 by paying the county license tax imposed pursuant to ~~Section~~
24 Sections 40-12-51, 40-12-62, and 40-12-169, and shall provide
25 to the commissioner proof of payment of the license upon

1 application for each off-site sale. If more than one motor
2 vehicle dealer participates in the same off-site sale, each
3 motor vehicle dealer participating in the sale shall obtain
4 from the judge of probate or other county licensing official a
5 county license for the off-site location by paying the county
6 license tax imposed pursuant to ~~Section~~ Sections 40-12-51,
7 40-12-62, and 40-12-169.

8 "(d) For purposes of this section, a new motor
9 vehicle dealer temporarily displaying new vehicles at a
10 shopping mall, auto show, or other location solely for
11 advertising or display purposes and from which location sales
12 are not conducted, shall not be deemed to be conducting an
13 off-site sale and no off-site sales license shall be required.

14 "(e) For purposes of this section, an off-site sales
15 license shall not be required for wholesale sales between
16 licensed motor vehicle dealers or for retail sales by new or
17 used motor vehicle dealers conducted at the permanent location
18 of an auction company which is licensed as a used motor
19 vehicle dealer or motor vehicle wholesale auction.

20 "§40-12-398.

21 "Before any master dealer license ~~shall~~ may be
22 issued to a new motor vehicle dealer, used motor vehicle
23 dealer, motor vehicle rebuilder, or motor vehicle wholesaler,
24 the applicant shall deliver to the commissioner a good and
25 sufficient surety bond, executed by the applicant as principal

1 and by a corporate surety company qualified to do business in
2 the state as surety, in the sum of ~~twenty-five thousand~~
3 ~~dollars (\$25,000)~~ not less than fifty thousand dollars
4 (\$50,000) or an amount as prescribed by the department. Such
5 bond shall be in a form to be approved by the commissioner,
6 and shall be conditioned that the motor vehicle dealer, motor
7 vehicle rebuilder, or motor vehicle wholesaler shall comply
8 with the conditions of any contract made by such dealer in
9 connection with the sale or exchange of any motor vehicle and
10 shall not violate any of the provisions of law relating to the
11 conduct of the business for which he is licensed. Such bond
12 shall be payable to the commissioner and to his successors in
13 office, and shall be in favor of any person who shall recover
14 any judgment for any loss as a result of any violation of the
15 conditions hereinabove contained. The bond shall serve in lieu
16 of the bond provided for in subsection (b) of Section 32-8-34
17 and, in addition to all other conditions, shall also be
18 conditioned upon their performance of their duties as a
19 designated agent under Chapter 8 of Title 32. The penalty
20 provisions provided under this article, in addition to the tax
21 liability incurred under Chapter 23 of this title on the sale
22 of a motor vehicle, may be assessed against the bond."

23 Section 2. (a) Beginning October 1, 2020, the
24 application fee prescribed in Section 40-12-392, Code of
25 Alabama 1975, shall be equal to the average of the annual

1 dealer license fees, as of January 1, 2020, of the contiguous
2 states to Alabama and shall be rounded to the nearest
3 twenty-five dollars (\$25). The Department of Revenue may
4 adjust these fees once every five years thereafter using the
5 same calculation; provided, the adjusted fee may not exceed
6 the application fee provided under Section 40-12-413, Code of
7 Alabama 1975.

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

14 Section 3. Article 10, commencing with Section
15 40-12-445, is added to Chapter 12 of Title 40, Code of Alabama
16 1975, to read as follows:

17 §40-12-445.

18 As used in this article, the following words shall
19 have the following meanings:

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

22 (2) COMMISSIONER. The Commissioner of Revenue.

23 (3) DEPARTMENT. The Department of Revenue.

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

1 (5) MOTOR VEHICLE REBUILDER. As defined in Section
2 40-12-390.

3 (6) NEW MOTOR VEHICLE DEALER. As defined in Section
4 40-12-390.

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

6 (8) PLACE OF BUSINESS. The place owned or leased and
7 regularly occupied by a person for the principal purpose of
8 engaging in the business of a wholesale motor vehicle auction
9 from which the wholesale of motor vehicles is conducted and
10 where the books and records required for the conduct of
11 business are maintained and kept.

12 (9) USED MOTOR VEHICLE DEALER. As defined in Section
13 40-12-390.

14 (10) MOTOR VEHICLE WHOLESALE AUCTION. Any person
15 engaged in the business of buying, selling, exchanging, or
16 facilitating the sale of motor vehicles at wholesale to new or
17 used motor vehicle dealers ~~and~~, automotive dismantler and
18 parts recyclers, and secondary metals recyclers as defined in
19 Section 13A-8-30, and not to the public.

20 §40-12-446.

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

24 (b) A person desiring to engage in the business of a
25 motor vehicle wholesale auction shall apply to the department

1 on a form prescribed by the department. The form shall contain
2 all of the following:

3 (1) The legal name of the applicant.

4 (2) The street address of the applicant's principal
5 place of business.

6 (3) The street address of the applicant's
7 headquarters, if different from the applicant's principal
8 place of business.

9 (4) Any additional information as may be required by
10 the department.

11 (c) A motor vehicle wholesale auction shall be
12 required to maintain books, records, and files that shall be
13 accessible and available for inspection by the department
14 during normal business hours on usual business days. The
15 department, by rule, shall establish electronic reporting
16 requirements regarding the sale of motor vehicles at the motor
17 vehicle wholesale auction.

18 (d) Every licensee under this article shall keep
19 books and records in a form prescribed by the department. The
20 books and records shall include purchases, sales or exchanges,
21 and receipts of every motor vehicle purchased or sold or held
22 for sale at the location of the licensee. In addition, the
23 books and records shall include a description of each motor
24 vehicle, which shall include the vehicle identification number

1 of each motor vehicle, together with the name and address of
2 any seller or purchaser of the motor vehicle.

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

10 §40-12-447.

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

16 (b) A privilege license issued to a motor vehicle
17 wholesale auction under this article shall be valid for one
18 year from the first day of October and shall be renewed on
19 October 1 of each year. Thirty days of grace for obtaining the
20 license shall be allowed without penalty. Thereafter,
21 penalties prescribed under this article for delinquent
22 licenses shall be imposed.

23 §40-12-448.

24 (a) Except as provided in subsection (b), before
25 being licensed under this article, a person shall demonstrate

1 proof of responsibility by depositing with the commissioner a
 2 continuing surety bond in the amount prescribed under Section
 3 40-12-398 from a company authorized to do business in the
 4 state. The bond must be approved by the commissioner, payable
 5 to the state, and conditioned upon the faithful observance of
 6 all the provisions of this article. The bond must also
 7 indemnify any person who suffers a loss by reason of failure
 8 to observe the provisions of this article.

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

12 §40-12-449.

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

17 (b) A license may be revoked or a license
 18 application may be denied by the department for any of the
 19 following reasons:

20 (1) Fraud practiced or any material misstatement in
 21 the license application.

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

24 ~~(3) Skipping title assignment: Accepting open~~
 25 ~~assignment of title or bill of sale for a motor vehicle which~~

1 ~~is not completed by identifying the licensee as the purchaser~~
2 ~~or assignee of the motor vehicle.~~

3 (3) Skipping title assignment; Accepting an open
4 assignment of title whereby the seller has signed the title to
5 transfer ownership without listing the purchaser in the title
6 assignment.

7 (4) Having no established place of business.

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

9 (6) Knowingly dealing in stolen motor vehicles,
10 parts, or accessories.

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

13 (8) Disconnecting, turning back, or resetting the
14 odometer of a motor vehicle in violation of state or federal
15 law.

16 (9) Filing a materially erroneous or fraudulent tax
17 return with the department.

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

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

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

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

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

10 §40-12-450.

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

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

24 Section 5. Section 2 of this act shall become
25 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.

