

1 HB205
2 216590-2
3 By Representative Blackshear
4 RFD: Commerce and Small Business
5 First Read: 02-FEB-22

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ENROLLED, An Act,

Relating to motor vehicle dealers; to amend Section 40-12-395, Code of Alabama 1975, to provide that certain supplemental license requirements for off-site sales of motor vehicles do not apply to new or used motor vehicle dealers under certain conditions.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 40-12-395, Code of Alabama 1975, is amended to read as follows:

"§40-12-395.

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

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

1 "(1) The off-site sales events shall not exceed
2 three per dealer per license year with each sale not to exceed
3 10 consecutive calendar days in duration. Off-site sales of
4 new motor vehicles by new motor vehicle dealers shall be
5 conducted only at a location within the new motor vehicle
6 dealer's area of responsibility as defined in the contract or
7 franchise agreement between the new motor vehicle dealer and
8 its manufacturer or distributor. Off-site sales of used motor
9 vehicles shall be conducted only at a location in the county
10 or city where the new or used motor vehicle dealer maintains a
11 permanent location.

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

22 "(3)a. At least 10 calendar days before conducting
23 each off-site sale, the facilitator of the off-site sale shall
24 obtain a master off-site sale license by making a license
25 application to the commissioner and paying an application fee

1 of twenty-five dollars (\$25) for each off-site sale. On the
2 application, the facilitator shall list each participating
3 motor vehicle dealer and the participating motor vehicle
4 dealer's off-site sale license number, as required in
5 subdivision (4). The off-site sale license required in
6 subdivision (4) is not required if the facilitator and motor
7 vehicle dealer are the same entity. Each motor vehicle dealer
8 participating in the off-site sale shall obtain an off-site
9 license required by subdivision (4) and provide the license to
10 the facilitator prior to the facilitator making the
11 application.

12 "b. The failure of a facilitator to disclose
13 participating motor vehicle dealers shall subject the
14 facilitator to the following penalties:

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

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

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

10 "(5) This subsection shall not be construed to
11 prohibit a new or used motor vehicle dealer from delivering a
12 motor vehicle off-site or from selling a motor vehicle to a
13 customer at the customer's home or place of business.

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

1 imposed pursuant to Sections 40-12-51, 40-12-62, and 40-12-169.

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

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

14 Section 2. This act shall become effective on the
15 first day of the third month following its passage and
16 approval by the Governor, or its otherwise becoming law.

