

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

SYNOPSIS: Under existing law, a new or used motor vehicle is required to be sold only from the permanent location of the new or used motor vehicle dealer.

Also under existing law, a new or used motor vehicle dealer may obtain a supplemental license and conduct off-site sales on a temporary basis.

This bill would provide that the supplemental license requirement for off-site sales does not apply to new or used motor vehicle dealers who deliver motor vehicles off-site to customers or who sell motor vehicles to customers at their home or place of business.

A BILL
TO BE ENTITLED
AN ACT

Relating to motor vehicle dealers; to amend Section 40-12-395, Code of Alabama 1975, to provide that certain

1 supplemental license requirements for off-site sales of motor
2 vehicles do not apply to new or used motor vehicle dealers
3 under certain conditions.

4 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

7 "§40-12-395.

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

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

22 "(1) The off-site sales events shall not exceed
23 three per dealer per license year with each sale not to exceed
24 10 consecutive calendar days in duration. Off-site sales of
25 new motor vehicles by new motor vehicle dealers shall be
26 conducted only at a location within the new motor vehicle
27 dealer's area of responsibility as defined in the contract or

1 franchise agreement between the new motor vehicle dealer and
2 its manufacturer or distributor. Off-site sales of used motor
3 vehicles shall be conducted only at a location in the county
4 or city where the new or used motor vehicle dealer maintains a
5 permanent location.

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

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

1 license required by subdivision (4) and provide the license to
2 the facilitator prior to the facilitator making the
3 application.

4 "b. The failure of a facilitator to disclose
5 participating motor vehicle dealers shall subject the
6 facilitator to the following penalties:

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

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

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

26 "(5) This subsection shall not be construed to
27 prohibit a new or used motor vehicle dealer from delivering a

1 motor vehicle off-site or from selling a motor vehicle to a
2 customer at the customer's home or place of business.

3 "(c) In addition to the foregoing, the motor vehicle
4 dealer shall obtain from the judge of probate or other county
5 licensing official a county license for the off-site location
6 by paying the county license tax imposed pursuant to Sections
7 40-12-51, 40-12-62, and 40-12-169, and shall provide to the
8 commissioner proof of payment of the license upon application
9 for each off-site sale. If more than one motor vehicle dealer
10 participates in the same off-site sale, each motor vehicle
11 dealer participating in the sale shall obtain from the judge
12 of probate or other county licensing official a county license
13 for the off-site location by paying the county license tax
14 imposed pursuant to Sections 40-12-51, 40-12-62, and
15 40-12-169.

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

22 "(e) For purposes of this section, an off-site sales
23 license shall not be required for wholesale sales between
24 licensed motor vehicle dealers or for retail sales by new or
25 used motor vehicle dealers conducted at the permanent location
26 of an auction company which is licensed as a used motor
27 vehicle dealer or motor vehicle wholesale auction."

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