

1 SB112  
2 216005-2  
3 By Senator Waggoner  
4 RFD: Governmental Affairs  
5 First Read: 18-JAN-22

1 SB112

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4 ENGROSSED

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7 A BILL  
8 TO BE ENTITLED  
9 AN ACT

10  
11 Relating to motor vehicle dealers; to amend Section  
12 40-12-395, Code of Alabama 1975, to provide that certain  
13 supplemental license requirements for off-site sales of motor  
14 vehicles do not apply to new or used motor vehicle dealers  
15 under certain conditions.

16 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

19 "§40-12-395.

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

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

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

18           "(2) The off-site sale need not be conducted in a  
19 building or permanent structure, but the facilitator shall  
20 display a temporary sign at the location where the off-site  
21 sale is conducted identifying the name of the facilitator who  
22 is conducting the sale as stated on the license required by  
23 subdivision (3) and the name of the motor vehicle dealers who  
24 are participating in the sale as stated on the license  
25 required by subdivision (4). All advertisements and other  
26 notices of the sale must be conducted in the name of the  
27 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 "(4) At least 10 calendar days before conducting  
4 each off-site sale, the motor vehicle dealer shall obtain an  
5 off-site sale license by making license application to the  
6 commissioner and paying an application fee of twenty-five  
7 dollars (\$25) for each off-site sale to be conducted. If more  
8 than one motor vehicle dealer participates in the same  
9 off-site sale, each motor vehicle dealer participating in the  
10 sale shall obtain an off-site sale license from the  
11 commissioner.

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

16 "(c) In addition to the foregoing, the motor vehicle  
17 dealer shall obtain from the judge of probate or other county  
18 licensing official a county license for the off-site location  
19 by paying the county license tax imposed pursuant to Sections  
20 40-12-51, 40-12-62, and 40-12-169, and shall provide to the  
21 commissioner proof of payment of the license upon application  
22 for each off-site sale. If more than one motor vehicle dealer  
23 participates in the same off-site sale, each motor vehicle  
24 dealer participating in the sale shall obtain from the judge  
25 of probate or other county licensing official a county license  
26 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.

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Senate

Read for the first time and referred to the Senate  
committee on Governmental Affairs..... 18-JAN-22

Read for the second time and placed on the calen-  
dar 1 amendment..... 08-FEB-22

Read for the third time and passed as amended .... 10-FEB-22

Yeas 28  
Nays 0

Patrick Harris,  
Secretary.