

1 SB305
2 157701-2
3 By Senator Brewbaker
4 RFD: Finance and Taxation General Fund
5 First Read: 04-FEB-14

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8 SYNOPSIS: Under existing law, all types of motor
9 vehicle dealers are not required to have a state
10 license to operate or to acquire dealer license
11 plates.

12 This bill would establish a uniform motor
13 vehicle dealer license and license fee for all new
14 and used vehicle dealers, wholesalers, and
15 rebuilders by consolidating existing licenses.

16 The bill would also decrease the time period
17 to obtain an off-site sale event license from 14
18 days prior to the sale to one day prior to the
19 sale, increase the surety bond to \$50,000 for all
20 licensees and eliminate the need for a separate
21 designated agent surety bond, establish the
22 prerequisites for obtaining dealer and motorcycle
23 dealer license plates, and increase the penalty for
24 certain violations.

25 Amendment 621 of the Constitution of Alabama
26 of 1901, now appearing as Section 111.05 of the
27 Official ReCompilation of the Constitution of

1 Alabama of 1901, as amended, prohibits a general
2 law whose purpose or effect would be to require a
3 new or increased expenditure of local funds from
4 becoming effective with regard to a local
5 governmental entity without enactment by a 2/3 vote
6 unless: it comes within one of a number of
7 specified exceptions; it is approved by the
8 affected entity; or the Legislature appropriates
9 funds, or provides a local source of revenue, to
10 the entity for the purpose.

11 The purpose or effect of this bill would be
12 to require a new or increased expenditure of local
13 funds within the meaning of the amendment. However,
14 the bill does not require approval of a local
15 governmental entity or enactment by a 2/3 vote to
16 become effective because it comes within one of the
17 specified exceptions contained in the amendment.

18
19 A BILL

20 TO BE ENTITLED

21 AN ACT

22
23 To amend Sections 40-12-264, 40-12-390, 40-12-391,
24 40-12-392, 40-12-395, 40-12-396, 40-12-398, and 40-12-400,
25 Code of Alabama 1975, relating to motor vehicle dealer license
26 plates and regulatory license requirements; to require a
27 uniform motor vehicle dealer license for all motor vehicle

1 dealers except dealers selling only utility trailers or
2 non-titled trailers; to establish a uniform license fee and
3 eliminate the requirement that new and used motor vehicle
4 dealers obtain multiple license categories to conduct
5 business; to reduce the time period required to obtain an
6 off-site sales event license; to increase the surety bond
7 requirement for all licensees and eliminate the need for a
8 separate designated agent surety bond; to establish
9 prerequisites for obtaining dealer and motorcycle dealer
10 license plates; to further provide for the penalty for
11 violations; and in connection therewith would have as its
12 purpose or effect the requirement of a new or increased
13 expenditure of local funds within the meaning of Amendment 621
14 of the Constitution of Alabama of 1901, now appearing as
15 Section 111.05 of the Official Recompilation of the
16 Constitution of Alabama of 1901, as amended.

17 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

18 Section 1. Section 40-12-264, Code of Alabama 1975,
19 is amended to read as follows:

20 "§40-12-264.

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

25 "(b) A new or used motor vehicle dealer who has a
26 current dealer license as required by ~~Sections~~ Section
27 40-12-51 ~~and 40-12-391~~ or ~~Section~~ 40-12-169, and Section

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

1 inventory of the dealer. The number of dealer license plates
2 is limited as follows:

3 "(1) A licensed new motor vehicle dealer may
4 purchase a maximum combined total of 25 dealer and motorcycle
5 dealer license plates unless the dealer qualifies for
6 additional dealer license plates as provided for in
7 subdivision ~~(4)~~ (3).

8 "(2) A licensed used motor vehicle dealer may
9 purchase a maximum combined total of 10 dealer and motorcycle
10 dealer license plates unless the dealer qualifies for
11 additional dealer license plates as provided for in
12 subdivision ~~(4)~~ (3).

13 ~~"(3) A licensed motorcycle dealer may purchase a~~
14 ~~maximum of 10 motorcycle dealer license plates.~~

15 ~~"(4)~~ (3) Any new or used motor vehicle dealer who
16 completes applications for certificates of title involving
17 title transfers for 1,500 or more motor vehicles in this state
18 during the previous dealer regulatory license year may
19 purchase a combined total of not more than 25 additional
20 dealer and motorcycle dealer license plates.

21 "(c) Dealer license plates may be used by
22 prospective purchasers, owners, partners, corporate officers,
23 and employees of the dealership and only on vehicles owned by
24 the dealership and being held in the inventory of the dealer.
25 Dealer license plates shall not be used on vehicles that are
26 utilized by the dealership as rental or lease vehicles, tow
27 trucks, service trucks or vans, and other service vehicles. A

1 prospective purchaser shall be limited to 72 hours of use of
2 dealer license plates. All vehicles on temporary loan from a
3 motor vehicle dealer to a customer whose vehicle is being
4 serviced or repaired by the dealer or to a high school for the
5 purpose of student driver education shall be considered dealer
6 demonstrator vehicles and dealer license plates may be used on
7 these vehicles provided a fee is not charged by the dealer for
8 the use.

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

23 "(e) A licensed new or used motor vehicle dealer or
24 wholesaler may purchase a maximum of 10 dealer transit license
25 plates to be used on motor vehicles being offered for sale to
26 licensed motor vehicle dealers. Dealer transit license plates
27 may be used by the new or used motor vehicle dealer or a

1 wholesaler to transport vehicles within the inventory of the
2 dealer or wholesaler. Dealer transit license plates shall not
3 be used on service vehicles including tow trucks, rental, or
4 lease vehicles. The fees for dealer transit license plates
5 shall be the same as the fees provided in subsection (b) for
6 dealer license plates.

7 "(f) A licensed motor vehicle rebuilder ~~or motor~~
8 ~~vehicle reconditioner~~ may purchase a maximum of 10 dealer
9 transit license plates to be used in accordance with
10 subsection (a) of Section 32-8-87.

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

26 "(h) The proceeds of the fees levied in this section
27 shall not be subject to proration. The fees collected pursuant

1 to this section shall be distributed by the county license
2 plate issuing officials in the same manner as fees for private
3 passenger automobiles and motorcycles pursuant to Sections
4 40-12-269, 40-12-270, and 40-12-274. No fees provided in this
5 section may be refunded.

6 "(i) No motor vehicle ad valorem taxes, registration
7 fees imposed by local law, or issuance fees imposed by local
8 law shall be collected by the county official who issues
9 license plates pursuant to this section. In addition, motor
10 vehicle delinquency penalties and interest fees shall not be
11 applicable when issuing license plates pursuant to this
12 section.

13 "(j) Any person to whom license plates are issued
14 under this section, upon forfeiture or revocation of his or
15 her license under Section 40-12-390, et seq., or upon
16 discontinuing business, shall surrender to the issuing
17 official all license plates issued within 10 calendar days
18 from the date of forfeiture or revocation of license or
19 discontinuing business.

20 "(k) Motor vehicle dealer, motorcycle dealer,
21 manufacturer, or dealer transit license plates may not be used
22 in lieu of regular issued license plates as a means of
23 avoiding the registration and ad valorem tax requirements of
24 this chapter. Any person who willfully violates this section
25 of law shall be subject to a Department of Revenue penalty of
26 one hundred dollars (\$100) for the first violation and five
27 hundred dollars (\$500) for each subsequent violation.

1 "(l) A licensed new or used motor vehicle dealer
2 shall register any motor vehicle and purchase an Alabama
3 license plate of the proper classification for any motor
4 vehicle withdrawn from the inventory of the dealer.

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

8 "(n) Any person who makes willful misstatements or
9 files documents with erroneous information in order to obtain
10 motor vehicle dealer, motorcycle dealer, dealer transit, or
11 manufacturer license plates shall be guilty of a Class A
12 misdemeanor subject to criminal penalties as provided by law,
13 and may be assessed a civil penalty of one thousand dollars
14 (\$1,000) by the department.

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

1 Section 2. Sections 40-12-390, 40-12-391, 40-12-392,
2 40-12-395, 40-12-396, 40-12-398, and 40-12-400, Code of
3 Alabama 1975, are amended to read as follows:

4 "§40-12-390.

5 "The following words and phrases, when used in this
6 article, shall have the following meanings:

7 "(1) COMMISSIONER. The state Commissioner of
8 Revenue.

9 "(2) DISTRIBUTOR. Any person, firm, or corporation
10 engaged in the business of selling or distributing new motor
11 vehicles to new motor vehicle dealers.

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

15 "(4) MOTOR VEHICLE. Any motor vehicle as defined in
16 Section 40-12-240, but the term shall not include ~~trailers,~~
17 ~~semitrailers or house trailers as defined in Section 40-12-240~~
18 any trailer not required to have a certificate of title.

19 "~~(5) MOTOR VEHICLE RECONDITIONER. Any person, firm,~~
20 ~~or corporation engaged in the business of refurbishing,~~
21 ~~repairing, or replacing damaged parts of motor vehicles for~~
22 ~~the purpose of preparing the vehicle for resale under the same~~
23 ~~identification and identity as the vehicle bore before the~~
24 ~~refurbishing.~~

25 "~~(6)~~ (5) MOTOR VEHICLE REBUILDER. Any person, firm,
26 or corporation engaged in the business of making or causing to
27 be made extensive repairs, replacements, or combination of

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

11 "~~(7)~~ (6) MOTOR VEHICLE WHOLESALER. Any person, firm,
12 or corporation engaged in the business of buying, selling, or
13 exchanging motor vehicles at wholesale to motor vehicle
14 dealers, as defined in this article, and not to the public.

15 "~~(8)~~ (7) NEW MOTOR VEHICLE. A motor vehicle, other
16 than a used motor vehicle, the legal title of which has never
17 been transferred by a manufacturer, distributor, or new motor
18 vehicle dealer to an ultimate purchaser.

19 "~~(9)~~ (8) NEW MOTOR VEHICLE DEALER. Any person, firm,
20 or corporation which holds a bona fide contract or franchise
21 in this state in effect with a manufacturer or distributor of
22 new motor vehicles and is engaged in the business of selling,
23 advertising, or negotiating the sale of new motor vehicles or
24 new and used motor vehicles, and the duly licensed new motor
25 vehicle dealers shall be the sole and only persons, firms, or
26 corporations entitled, other than in connection with the
27 rental or leasing of new motor vehicles by persons engaged in

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

5 ~~"(10)~~ (9) PERMANENT LOCATION. A building or structure
6 from which sales of motor vehicles are conducted. A house used
7 as a residence by the business owner, a partner, or a
8 corporate officer from which sales of motor vehicles are
9 conducted may also be a permanent location. The building or
10 structure must be owned, rented, or leased and must be used as
11 an office and a place to receive mail, keep records, and
12 conduct routine business, to include an operable telephone
13 listed with the telephone company under the name of the
14 licensed business.

15 ~~"(11)~~ (10) USED MOTOR VEHICLE. A motor vehicle, the
16 legal title of which has been transferred by a manufacturer,
17 distributor, or new motor vehicle dealer to an ultimate
18 purchaser.

19 ~~"(12)~~ (11) USED MOTOR VEHICLE DEALER. Any person,
20 firm, or corporation engaged in the business of buying,
21 selling, exchanging, advertising, or negotiating the sale of
22 five or more motor vehicles at retail during a calendar year,
23 whether or not the motor vehicles are owned by such person,
24 firm, or corporation, or in offering or displaying motor
25 vehicles for sale at retail to the public. The term "selling"
26 or "sale" shall include lease-purchase transactions. The term
27 "used motor vehicle dealer" does not include banks, credit

1 unions, licensees of the State Banking Department, and finance
2 companies which acquire motor vehicles as an incident to their
3 regular business and does not include motor vehicle rental and
4 leasing companies. The term also includes a motor vehicle
5 rebuilder and motor vehicle wholesaler as defined in this
6 article.

7 "~~(13)~~(12) ULTIMATE PURCHASER. With respect to a new
8 motor vehicle, the first person, firm, or corporation, other
9 than a new motor vehicle dealer purchasing in his or her
10 capacity as a new motor vehicle dealer, who in good faith
11 purchases the new motor vehicle for purposes other than
12 resale. Ultimate purchaser shall not include a person, firm,
13 or corporation who purchases a vehicle for purposes of
14 altering or remanufacturing the motor vehicle for future
15 resale.

16 "§40-12-391.

17 "(a) No person shall be licensed as an automobile
18 dealer under the provisions of Section 40-12-51, nor shall any
19 person engage in business as, serve in the capacity of, or act
20 as a new motor vehicle dealer, used motor vehicle dealer,
21 ~~motor vehicle reconditioner,~~ motor vehicle rebuilder, or motor
22 vehicle wholesaler in this state, without first obtaining a
23 license as provided in this article and, if a new motor
24 vehicle dealer, or a used motor vehicle dealer, a state sales
25 tax number.

26 "(b) No person, firm, or corporation shall engage in
27 the business of buying, selling, exchanging, advertising, or

1 negotiating the sale of new motor vehicles unless he or she
2 holds a valid license as a new motor vehicle dealer in this
3 state for the make or makes of new motor vehicles being
4 bought, sold, exchanged, advertised, or negotiated or unless a
5 bona fide employee or agent of the licensee.

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

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

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

27 "§40-12-392.

1 "(a) The application for a license shall be in such
2 form and shall be subject to such rules and regulations as may
3 be prescribed by the commissioner. An application shall be
4 verified by the oath or affirmation of the applicant. If the
5 applicant is a sole proprietorship, the application shall
6 contain the name and residence of the applicant. If the
7 applicant is a partnership, the application shall contain the
8 names and residences of each partner. If the applicant is a
9 corporation, the application shall contain the names and
10 residences of the officers and directors. If the applicant is
11 a new motor vehicle dealer, or used motor vehicle dealer in
12 this state, the application shall contain the state sales tax
13 number assigned to the applicant. The application shall
14 enumerate the number of new and used vehicles sold during the
15 previous calendar year; describe the exact location of the
16 place of business, and shall state: That the location is a
17 permanent one; that the location affords sufficient space upon
18 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
26 that the applicant is either (i) franchised by a manufacturer
27 of motor vehicles, and, if so, the name of the manufacturer

1 and line make that the applicant is authorized to represent,
2 or (ii) a used motor vehicle dealer, ~~reconditioner,~~ rebuilder,
3 or wholesaler. Upon making application, the person applying
4 shall pay an application fee of ~~ten dollars (\$10)~~ twenty-five
5 dollars (\$25) to the commissioner in addition to other fees
6 required by law. The commissioner may cause an investigation
7 to be made and upon being satisfied that the facts set forth
8 in the application are true, shall issue a license certificate
9 to the applicant, which shall entitle the licensee to operate
10 as a motor vehicle dealer, ~~reconditioner,~~ rebuilder, or
11 wholesaler for one year from the first day of October of each
12 year. If the commissioner, upon investigation, determines that
13 a license should not be issued, the commissioner may deny the
14 license and the applicant may appeal the denial to the
15 Administrative Law Division of the department as allowed in
16 Chapter 2A of this title.

17 "(b) A ~~motor vehicle reconditioner,~~ motor vehicle
18 rebuilder, or a motor vehicle wholesaler who is not a new or
19 used motor vehicle dealer shall not be required to maintain a
20 sign designating the location, and may maintain books,
21 records, and files of his or her business at his or her home;
22 provided, that books, records, and files shall be accessible
23 and available for inspection by the commissioner, inspectors,
24 or employees during normal business hours on usual business
25 days. The location may be adjacent to his or her residence.

26 "~~(c) If a motor vehicle reconditioner, a motor~~
27 ~~vehicle rebuilder, or a motor vehicle wholesaler shall also be~~

1 ~~a motor vehicle dealer within the meaning of this article, he~~
2 ~~or she shall qualify with the commissioner both as a motor~~
3 ~~vehicle dealer and motor vehicle reconditioner, or motor~~
4 ~~vehicle rebuilder or motor vehicle wholesaler, and shall file~~
5 ~~his or her application and pay the fee for each business, and~~
6 ~~shall comply with the requirements of subsections (a) and (b)~~
7 ~~of this section as to the business location for each business~~
8 ~~licensed by the commissioner.~~

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

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

1 penalty may be assessed against the bond as provided for in
2 Section 40-12-398.

3 "§40-12-395.

4 "(a) A person licensed under this article shall
5 obtain a supplemental license for each additional place of
6 business, ~~on a form to be furnished~~ in a manner as prescribed
7 by the commissioner and upon payment of an additional
8 application fee of ~~\$5~~ five dollars (\$5) for each ~~such~~
9 additional location. The signage and other requirements of
10 Section 40-12-392 shall apply to each additional place of
11 business. Only one licensed dealer shall operate at the same
12 place of business; ~~provided, that a licensed motor vehicle~~
13 ~~reconditioner or motor vehicle rebuilder may operate on the~~
14 ~~premises for which he is licensed to operate as a motor~~
15 ~~vehicle dealer.~~

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 motor vehicle dealer
8 shall display a temporary sign at the location where the
9 off-site sale is conducted identifying the name of the motor
10 vehicle dealer who is conducting the sale as stated on the
11 license required by this section. All advertisements and other
12 notices of the sale must be conducted in the name of the
13 licensee.

14 "(3) ~~Not later than 14 days~~ At least one calendar
15 day before conducting each off-site sale, the motor vehicle
16 dealer shall obtain ~~from the commissioner on a form designed~~
17 ~~by the commissioner~~ an off-site sale license by making license
18 application to the commissioner and paying an application fee
19 of twenty-five dollars (\$25) for each off-site sale to be
20 conducted. If more than one motor vehicle dealer participates
21 in the same off-site sale, each motor vehicle dealer
22 participating in the sale shall obtain an off-site sale
23 license from the commissioner.

24 "(c) In addition to the foregoing, the motor vehicle
25 dealer shall obtain from the judge of probate or other county
26 ~~taxing~~ licensing official a county license for the off-site
27 location by paying the county license tax imposed pursuant to

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

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

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

19 "§40-12-396.

20 "(a) The commissioner may, subject to the appeal
21 provisions allowed in Chapter 2A of this Title 40, suspend or
22 revoke any license issued for the willful and intentional
23 failure of the licensee to comply with the provisions of this
24 article or for the willful failure to maintain his business
25 premises, location, and sign as described in his application.

1 "(b) A license may be revoked or a license
2 application may be denied by the Department of Revenue for any
3 of the following reasons:

4 "(1) Fraud practiced or any material misstatement in
5 license application.

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

8 "(3) Skipping title assignment; accepting open
9 assignment of title and/or bill of sale for a motor vehicle
10 which is not completed by identifying said licensee as the
11 purchaser or assignee of the motor vehicle.

12 "(4) ~~Has~~ Having no established place of business.

13 "(5) Failing to keep and maintain records.

14 "(6) ~~Has knowingly dealt~~ Knowingly dealing in stolen
15 motor vehicles, parts, or accessories.

16 "(7) Willful failure to comply with provisions of
17 this chapter, or any rule or regulation promulgated
18 thereunder.

19 "(8) Disconnecting, turning back, or resetting the
20 odometer of any motor vehicle in violation of state or federal
21 law.

22 "(9) Filing a materially erroneous or fraudulent tax
23 return as certified by the Department of Revenue.

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

27 "§40-12-398.

1 ~~"Annually, before~~ Before any license shall be issued
2 to a new motor vehicle dealer, used motor vehicle dealer,
3 ~~motor vehicle reconditioner,~~ motor vehicle rebuilder, or motor
4 vehicle wholesaler, the applicant shall ~~either~~ deliver to the
5 commissioner a good and sufficient surety bond, executed by
6 the applicant as principal and by a corporate surety company
7 qualified to do business in the state as surety, in the sum of
8 ~~\$25,000 for a new motor vehicle dealer and \$10,000 for all~~
9 ~~other dealers~~ fifty thousand dollars (\$50,000). Such bond
10 shall be in a form to be approved by the commissioner, and
11 shall be conditioned that the motor vehicle dealer, ~~motor~~
12 ~~vehicle reconditioner,~~ motor vehicle rebuilder, or motor
13 vehicle wholesaler shall comply with the conditions of any
14 contract made by such dealer in connection with the sale or
15 exchange of any motor vehicle and shall not violate any of the
16 provisions of law relating to the conduct of the business for
17 which he is licensed. Such bond shall be payable to the
18 commissioner and to his successors in office, and shall be in
19 favor of any person who shall recover any judgment for any
20 loss as a result of any violation of the conditions
21 hereinabove contained. ~~Such bond shall be for the license~~
22 ~~period, and a new bond or proper continuation certificate~~
23 ~~shall be delivered to the commissioner at the beginning of~~
24 ~~each license period; provided, that the aggregate liability of~~
25 ~~the surety in any one license year shall, in no event, exceed~~
26 ~~the sum of such bond. The provisions of this section shall not~~
27 ~~apply to motor vehicle dealers or wholesalers who hold a valid~~

1 ~~motor vehicle dealer license under Section 40-12-51 or to~~
2 ~~motor vehicle rebuilders or reconditioners, as defined in this~~
3 ~~article who hold a valid business license to engage in such~~
4 ~~business as of April 1, 1978. The bond shall serve in lieu of~~
5 ~~the bond provided for in subsection (b) of Section 32-8-34~~
6 ~~and, in addition to all other conditions, shall also be~~
7 ~~conditioned upon their performance of their duties as a~~
8 ~~designated agent under Chapter 8 of Title 32.~~

9 "§40-12-400.

10 "Any person violating any of the provisions of this
11 article shall be guilty of a Class A misdemeanor ~~and, upon~~
12 ~~conviction, shall be punished by a fine of not less than five~~
13 ~~hundred dollars (\$500) nor more than two thousand dollars~~
14 ~~(\$2,000), or by imprisonment in the county jail for not less~~
15 ~~than 30 nor more than 90 days, or by both such fine and~~
16 ~~imprisonment."~~

17 Section 3. Although this bill would have as its
18 purpose or effect the requirement of a new or increased
19 expenditure of local funds, the bill is excluded from further
20 requirements and application under Amendment 621, now
21 appearing as Section 111.05 of the Official Recompilation of
22 the Constitution of Alabama of 1901, as amended, because the
23 bill defines a new crime or amends the definition of an
24 existing crime.

25 Section 4. Section 1 of this act shall become
26 effective October 1, 2014, following its passage and approval
27 by the Governor or its otherwise becoming law. Section 2 of

1 this act shall become effective August 1, 2014, following its
2 passage and approval by the Governor or its otherwise becoming
3 law.