

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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HOUSE BILL 432

Short Title: Licensing Selling of Cars.

(Public)

Sponsors: Representatives Saunders; Cole and Weatherly.

Referred to: Transportation, if favorable, Finance.

March 1, 2001

A BILL TO BE ENTITLED

1 AN ACT TO ESTABLISH PENALTIES FOR SELLING CARS IN VIOLATION OF
2 THE MOTOR VEHICLE DEALERS AND MANUFACTURERS LICENSING
3 LAW, TO ESTABLISH EDUCATIONAL REQUIREMENTS REQUIRED FOR
4 ISSUANCE AND RENEWAL OF LICENSURE FOR USED MOTOR VEHICLE
5 DEALERS, AND TO INCREASE FEES.
6

7 Whereas, not only the setting of standards to protect purchasers of motor
8 vehicles but also the enforcement of substantial penalties applicable when those
9 standards are not met is one of the most effective means to obtain this protection; and

10 Whereas, more complex laws governing regulation of the sale and
11 distribution of motor vehicles such as the titling of a vehicle, warranties, collection of
12 consumer debt pursuant to Federal Trade Commission regulations, and applicable tax
13 provisions impose a greater number of duties upon independent automobile dealers; and

14 Whereas, the most effective and consistent means of informing both
15 applicants for licensure and experienced, licensed motor vehicle dealers of major
16 changes and increasing complexities in the law is to develop a program insuring the
17 development and requirement of appropriate continuing education; and

18 Whereas, to better effect these policies, it is necessary to increase to more
19 appropriate levels the fees for those persons regulated by the Motor Vehicle Dealers and
20 Manufacturers Licensing Law; Now, therefore,

21 The General Assembly of North Carolina enacts:

22 **SECTION 1.** G.S. 20-287 reads as rewritten:

23 "**§ 20-287. Licenses ~~required.~~ required; penalties.**

24 (a) It shall be unlawful for any new motor vehicle dealer, used motor vehicle
25 dealer, motor vehicle sales representative, manufacturer, factory branch, factory
26 representative, distributor, distributor branch, distributor representative, or wholesaler to
27 engage in business in this State without first obtaining a license as provided in this
28 Article. If any motor vehicle dealer acts as a motor vehicle sales representative, the

1 dealer shall obtain a motor vehicle sales representative's license in addition to a motor
2 vehicle dealer's license. A sales representative may have only one license. The license
3 shall show the name of each dealer or wholesaler employing the sales representative.
4 The following license holders may operate as a motor vehicle dealer without obtaining a
5 motor vehicle dealer's license or paying an additional fee: a manufacturer, a factory
6 branch, a distributor, and a distributor branch. Any of these license holders who
7 operates as a motor vehicle dealer may sell motor vehicles at retail only at an
8 established salesroom.

9 (b) Any person who violates any provision of this section shall be guilty of a
10 Class 2 misdemeanor.

11 (c) In addition to any other punishment or remedy under the law for any violation
12 of this section, the Division may levy and collect a civil penalty, in an amount not to
13 exceed one thousand dollars (\$1,000) for each violation, against any person who has
14 obtained a license pursuant to this section, if it finds that the licensee has violated any
15 provisions of this section or of any rules adopted by the Division relating to the sale of
16 vehicles, vehicle titling, or vehicle registration. The Division may levy and collect a
17 civil penalty, in an amount not to exceed five thousand dollars (\$5,000) for each
18 violation of any provision of this section, against any person who has not obtained a
19 license as prescribed by this section."

20 **SECTION 2.** G.S. 20-288 reads as rewritten:

21 **"§ 20-288. Application for license; license requirements; expiration of license;**
22 **bond.**

23 (a) A ~~person~~ new motor vehicle dealer, motor vehicle sales representative,
24 manufacturer, factory branch, factory representative, distributor, distributor branch,
25 distributor representative, or wholesaler may obtain a license by filing an application
26 with the Division. An application must be on a form provided by the Division and
27 contain the information required by the Division. An application for a license must be
28 accompanied by the required fee and by an application for a dealer license plate.

29 (a1) A used motor vehicle dealer may obtain a license by filing an application, as
30 prescribed in subsection (a) of this section, and providing the following:

31 (1) The required fee.

32 (2) Proof that the applicant, within the last 12 months has completed a 12-
33 hour licensing course approved by the Division if the applicant is
34 seeking an initial license and a six-hour course approved by the
35 Division if the applicant is seeking a renewal license. The
36 requirements of G.S. 20-288(a1)(2) do not apply to a used motor
37 vehicle dealer the primary business of which is the sale of salvage
38 vehicles on behalf of insurers.

39 (3) If the applicant is an individual, proof that the applicant is at least 18
40 years of age, and proof that all salespersons employed by the dealer are
41 at least 18 years of age.

42 (4) The application for a dealer license plate.

43 (b) The Division shall require in such application, or otherwise, information
44 relating to matters set forth in G.S. 20-294 as grounds for the refusing of licenses, and to

1 other pertinent matters commensurate with the safeguarding of the public interest, all of
2 which shall be considered by the Division in determining the fitness of the applicant to
3 engage in the business for which he seeks a license.

4 (c) All licenses that are granted shall expire unless sooner revoked or suspended,
5 on June 30 of the year following date of issue.

6 (d) To obtain a license as a wholesaler, an applicant who intends to sell or
7 distribute self-propelled vehicles must have an established office in this State, and an
8 applicant who intends to sell or distribute only trailers or semitrailers of less than 2500
9 pounds unloaded weight must have a place of business in this State where the records
10 required under this Article are kept.

11 To obtain a license as a motor vehicle dealer, an applicant who intends to deal in
12 self-propelled vehicles must have an established salesroom in this State, and an
13 applicant who intends to deal in only trailers or semitrailers of less than 2500 pounds
14 unloaded weight must have a place of business in this State where the records required
15 under this Article are kept.

16 An applicant for a license as a manufacturer, a factory branch, a distributor, a
17 distributor branch, a wholesaler, or a motor vehicle dealer must have a separate license
18 for each established office, established salesroom, or other place of business in this
19 State. An application for any of these licenses shall include a list of the applicant's
20 places of business in this State.

21 (e) Each applicant approved by the Division for license as a motor vehicle dealer,
22 manufacturer, factory branch, distributor, distributor branch, or wholesaler shall furnish
23 a corporate surety bond or cash bond or fixed value equivalent of the bond. The amount
24 of the bond for an applicant for a motor vehicle dealer's license is twenty-five thousand
25 dollars (\$25,000) for one established salesroom of the applicant and ten thousand
26 dollars (\$10,000) for each of the applicant's additional established salesrooms. The
27 amount of the bond for other applicants required to furnish a bond is twenty-five
28 thousand dollars (\$25,000) for one place of business of the applicant and ten thousand
29 dollars (\$10,000) for each of the applicant's additional places of business.

30 A corporate surety bond shall be approved by the Commissioner as to form and shall
31 be conditioned that the obligor will faithfully conform to and abide by the provisions of
32 this Article and Article 15. A cash bond or fixed value equivalent thereof shall be
33 approved by the Commissioner as to form and terms of deposits as will secure the
34 ultimate beneficiaries of the bond; and such bond shall not be available for delivery to
35 any person contrary to the rules of the Commissioner. Any purchaser of a motor vehicle
36 who shall have suffered any loss or damage by any act of a license holder subject to this
37 subsection that constitutes a violation of this Article or Article 15 shall have the right to
38 institute an action to recover against the license holder and the surety. Every license
39 holder against whom an action is instituted shall notify the Commissioner of the action
40 within 10 days after served with process. A corporate surety bond shall remain in force
41 and effect and may not be canceled by the surety unless the bonded person stops
42 engaging in business or the person's license is denied, suspended, or revoked under G.S.
43 20-294. Such cancellation may be had only upon 30 days' written notice to the
44 Commissioner and shall not affect any liability incurred or accrued prior to the

1 termination of such 30-day period. This subsection does not apply to a license holder
2 who deals only in trailers having an empty weight of 4,000 pounds or less. This
3 subsection does not apply to manufacturers of, or dealers in, mobile or manufactured
4 homes who furnish a corporate surety bond, cash bond, or fixed value equivalent
5 thereof, pursuant to G.S. 143-143.12."

6 **SECTION 3.** G.S. 20-289(a) reads as rewritten:

7 "(a) The license fee for each fiscal year, or part thereof, shall be as follows:

- 8 (1) For motor vehicle dealers, distributors, distributor branches, and
9 wholesalers, fifty dollars (\$50.00) for each place of business.
10 (2) For manufacturers, one hundred dollars (\$100.00), and for each factory
11 branch in this State, seventy dollars (\$70.00).
12 (3) For motor vehicle sales representatives, ~~ten dollars (\$10.00).~~ fifteen
13 dollars (\$15.00).
14 (4) For factory representatives, or distributor representatives, ten dollars
15 (\$10.00).
16 (5) Repealed."

17 **SECTION 4.** This act becomes effective June 30, 2001.