



SENATE BILL No. 1204

November 7, 1996, Introduced by Senators BYRUM and CHERRY and referred to the Committee on Transportation and Tourism.

A bill to amend section 248 of Act No. 300 of the Public Acts of 1949, entitled as amended "Michigan vehicle code," as amended by Act No. 300 of the Public Acts of 1994, being section 257.248 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 248 of Act No. 300 of the Public Acts of
2 1949, as amended by Act No. 300 of the Public Acts of 1994, being
3 section 257.248 of the Michigan Compiled Laws, is amended to read
4 as follows:

5 Sec. 248. ~~—(1) A person shall not carry on or conduct the~~
6 ~~business of buying, selling, brokering, or dealing in vehicles of~~
7 ~~a type required to be titled under this act unless the person~~
8 ~~obtains a dealer license from the secretary of state authorizing~~
9 ~~the carrying on or conducting of that business. Until July 1,~~

~~1 1994, a person shall not carry on or conduct the business of
2 buying, selling, brokering, or dealing in distressed, late model
3 motor vehicles or salvageable parts unless the person obtains a
4 used or secondhand vehicle parts dealer license from the secre-
5 tary of state or is an insurance company admitted to conduct
6 business in this state, except that a motor vehicle repair facil-
7 ity registered under the motor vehicle service and repair act,
8 Act No. 300 of the Public Acts of 1974, being sections 257.130+
9 to 257.1340 of the Michigan Compiled Laws, may purchase salvagea-
10 ble parts and salvage vehicles for the purposes of using acquired
11 parts and vehicles in the repair of other vehicles. A person
12 shall not carry on or conduct the business of buying vehicles to
13 process into scrap metal or store or display vehicles as an agent
14 or escrow agent of an insurance company unless the person obtains
15 a dealer license from the secretary of state. A vehicle scrap
16 metal processor who does not purchase vehicles from unlicensed
17 persons is not required to obtain a dealer license. Until July
18 1, 1994, a person from another state shall not purchase, sell, or
19 otherwise deal in distressed, late model motor vehicles or sal-
20 vageable parts unless the person obtains a foreign salvage vehi-
21 cle dealer license from the secretary of state as prescribed
22 under section 248b. The secretary of state shall investigate and
23 seek prosecution, if necessary, of persons allegedly conducting a
24 business without a license. This subsection applies until July
25 1, 1994.~~

~~26 (2) The application for a dealer license shall be in the
27 form prescribed by the secretary of state and shall be signed by~~

~~1 the applicant. In addition to other information as may be
2 required by the secretary of state, the application shall include
3 all of the following:~~

~~4 (a) Name of applicant.~~

~~5 (b) Location of applicant's established place of business in
6 this state.~~

~~7 (c) The name under which business is to be conducted.~~

~~8 (d) If the business is a corporation, the state of
9 incorporation.~~

~~10 (e) Name and address of each owner or partner and, if a cor-
11 poration, the name of the principal officers.~~

~~12 (f) The county in which the business is to be conducted and
13 the address of each place of business in that county.~~

~~14 (g) If new vehicles are to be sold, the make to be handled.
15 Each new vehicle dealer shall send with the application for
16 license a certification that the dealer holds a bona fide con-
17 tract to act as factory representative, factory distributor, or
18 distributor representative to sell at retail the make of vehicle
19 to be sold.~~

~~20 (h) A statement of the previous history, record, and associ-
21 ations of the applicant and of each owner, partner, officer, and
22 director, which statement shall be sufficient to establish to the
23 satisfaction of the secretary of state the business reputation
24 and character of the applicant.~~

~~25 (i) A statement showing whether the applicant has previously
26 applied for a license, the result of the application, and whether~~

1 ~~the applicant has ever been the holder of a dealer license which~~
2 ~~was revoked or suspended.~~

3 ~~(j) If the applicant is a corporation or partnership, a~~
4 ~~statement showing whether a partner, employee, officer, or direc-~~
5 ~~tor has been refused a license or has been the holder of a~~
6 ~~license which was revoked or suspended.~~

7 ~~(k) Until July 1, 1994, if the application is for a used or~~
8 ~~secondhand vehicle parts dealer, all of the following:~~

9 ~~(i) Evidence that the applicant maintains or will maintain~~
10 ~~an established place of business.~~

11 ~~(ii) Evidence that the applicant maintains or will maintain~~
12 ~~a police book and vehicle parts purchase and sales records as~~
13 ~~required under this act.~~

14 ~~(iii) Evidence of workers' compensation insurance coverage~~
15 ~~for employees classified under the standard industrial classifi-~~
16 ~~cation number 4015, entitled "motor vehicle parts used" or~~
17 ~~under the national council on compensation insurance code number~~
18 ~~3821, entitled "automobile dismantling", if applicable.~~

19 ~~(3) A person shall make a separate application for a dealer~~
20 ~~license for each county in which business is to be conducted, and~~
21 ~~a dealer, before moving 1 or more of his or her places of busi-~~
22 ~~ness or opening an additional place of business, shall apply to~~
23 ~~the secretary of state for and obtain a supplemental dealer~~
24 ~~license for which a fee shall not be charged. The dealer license~~
25 ~~entitles the dealer to conduct in the county covered by the~~
26 ~~license the business of buying, selling, and dealing in~~
27 ~~vehicles. This subsection does not apply to a person licensed as~~

1 ~~a foreign salvage vehicle dealer under section 248b. This~~
2 ~~subsection applies until July 1, 1994.~~

3 (1) ~~(4)~~ The secretary of state may divide the calendar
4 year into quarters and the total number of dealer licensees into
5 approximately convenient quarter segments. Each dealer license
6 granted under ~~subsection (1)~~ THIS SECTION shall expire on the
7 last day of the month in the quarter for the business year in
8 which the license was issued and may be renewed upon application
9 and payment of the fee required by section 807.

10 (2) ~~(5)~~ A license shall not be granted until an investiga-
11 tion is made of the applicant's qualifications under this act,
12 except that this subsection does not apply to license renewals.
13 The secretary of state shall make the investigation within 15
14 days after receiving the application and make a report on the
15 investigation.

16 ~~(6) This subsection applies until July 1, 1994. The secre-~~
17 ~~tary of state shall classify and differentiate vehicle dealers~~
18 ~~according to the type of activity they perform. A dealer shall~~
19 ~~not engage in activities of a particular classification as pro-~~
20 ~~vided in this act unless the dealer is licensed in that~~
21 ~~classification. An applicant may apply for a dealer license in~~
22 ~~or more of the following classifications:~~

- 23 ~~(a) New vehicle dealer.~~
24 ~~(b) Used or secondhand vehicle dealer.~~
25 ~~(c) Used or secondhand vehicle parts dealer.~~
26 ~~(d) Vehicle scrap metal processor.~~

1 ~~(e) Vehicle salvage pool operator.~~

2 ~~(f) Distressed vehicle transporter.~~

3 ~~(g) Broker.~~

4 ~~(h) Until July 1, 1994, a foreign salvage vehicle dealer.~~

5 (3) ~~(7)~~ An applicant for a new vehicle dealer or a used or
6 secondhand vehicle dealer or broker license shall accompany the
7 application with a properly executed bond or renewal
8 certificate. If a renewal certificate is used, the bond shall be
9 considered as renewed for each succeeding year in the same amount
10 and with the same effect as an original bond. The bond shall be
11 in the sum of \$10,000.00 with good and sufficient surety to be
12 approved by the secretary of state. The bond shall be condi-
13 tioned to indemnify or reimburse a purchaser, seller, financing
14 agency, or governmental agency for monetary loss caused through
15 fraud, cheating, or misrepresentation in the conduct of the vehi-
16 cle business whether the fraud, cheating, or misrepresentation
17 was made by the dealer or by an employee, agent, or salesperson
18 of the dealer. The surety is required to make indemnification or
19 reimbursement for a monetary loss only after judgment based on
20 fraud, cheating, or misrepresentation has been entered in a court
21 of record against the licensee. The bond shall also be condi-
22 tioned to indemnify or reimburse the state for any sales tax
23 deficiency as provided in the general sales tax act, Act No. 167
24 of the Public Acts of 1933, ~~as amended,~~ being sections 205.51
25 to 205.78 of the Michigan Compiled Laws, or use tax deficiency as
26 provided in the use tax act, Act No. 94 of the Public Acts of
27 1937, ~~as amended,~~ being sections 205.91 to 205.111 of the

1 Michigan Compiled Laws, for the year in which the bond was in
2 force. The surety is required to make indemnification or reim-
3 bursement only after final judgment has been entered in a court
4 of record against the licensee. A dealer or applicant who has
5 furnished satisfactory proof that a bond similar to the bond
6 required by this subsection is executed and in force is exempt
7 from the bond provisions set forth in this subsection. The
8 aggregate liability of the surety shall not exceed the sum of the
9 bond. The surety on the bond may cancel the bond upon giving 30
10 days' notice in writing to the secretary of state and thereafter
11 is not liable for a breach of condition occurring after the
12 effective date of the cancellation.

13 (4) ~~(8)~~ An applicant for a new vehicle dealer or a used or
14 secondhand vehicle dealer license shall accompany the application
15 with an application for not less than 2 dealer plates as provided
16 by section 245, accompanied by the proper fee as provided by sec-
17 tion 803.

18 (5) ~~(9)~~ A dealer required to be licensed under this sec-
19 tion, as a condition precedent to the granting of a license,
20 shall file with the secretary of state an irrevocable written
21 stipulation, authenticated by the applicant, stipulating and
22 agreeing that legal process affecting the dealer, served on the
23 secretary of state or a deputy of the secretary of state, has the
24 same effect as if personally served on the dealer. This appoint-
25 ment remains in force as long as any liability of the dealer
26 remains outstanding within this state.

1 (6) ~~(+0)~~ A person shall not carry on or conduct the
2 business of buying, selling, brokering, or dealing in vehicles of
3 a type required to be titled under this act, OTHER THAN NONMOTOR-
4 IZED TRAILERS, unless the person obtains a dealer license from
5 the secretary of state authorizing the carrying on or conducting
6 of that business. A person shall not carry on or conduct the
7 business of buying, selling, brokering, or dealing in distressed,
8 late model vehicles or salvageable parts unless the person
9 obtains a used or secondhand vehicle parts dealer, an automotive
10 recycler, or a salvage pool license from the secretary of state
11 or is an insurance company admitted to conduct business in this
12 state. A person shall not carry on or conduct the business of
13 buying vehicles to process into scrap metal or store or display
14 vehicles as an agent or escrow agent of an insurance company,
15 unless the person obtains a dealer license from the secretary of
16 state. A vehicle scrap metal processor who does not purchase
17 vehicles or salvageable parts from unlicensed persons shall not
18 be required to obtain a dealer license. A person from another
19 state shall not purchase, sell, or otherwise deal in distressed,
20 late model vehicles or salvageable parts unless the person
21 obtains a foreign salvage vehicle dealer license from the secre-
22 tary of state as prescribed under section 248b. A person,
23 including a dealer, shall not purchase or acquire a distressed,
24 late model vehicle or a salvageable part through a salvage pool,
25 auction, or broker without a license as a salvage vehicle agent.
26 The secretary of state shall investigate and seek prosecution, if

1 necessary, of persons allegedly conducting a business without a
2 license. ~~This subsection applies on and after July 1, 1994.~~

3 (7) ~~(11) This subsection applies on and after July 1,~~
4 ~~1994.~~ The application for a dealer license shall be in the form
5 prescribed by the secretary of state and shall be signed by the
6 applicant. In addition to other information as may be required
7 by the secretary of state, the application shall include all of
8 the following:

9 (a) Name of applicant.

10 (b) Location of applicant's established place of business in
11 this state.

12 (c) The name under which business is to be conducted.

13 (d) If the business is a corporation, the state of
14 incorporation.

15 (e) Name, address, date of birth, and social security number
16 of each owner or partner and, if a corporation, the name,
17 address, date of birth, and social security numbers of each of
18 the principal officers.

19 (f) The county in which the business is to be conducted and
20 the address of each place of business in that county.

21 (g) If new vehicles are to be sold, the make to be handled.
22 Each new vehicle dealer shall send with the application for
23 license a certification that the dealer holds a bona fide con-
24 tract to act as factory representative, factory distributor, or
25 distributor representative to sell at retail (the make
26 of vehicle to be sold).

1 (h) A statement of the previous history, record, and
2 associations of the applicant and of each owner, partner,
3 officer, and director, which statement shall be sufficient to
4 establish to the satisfaction of the secretary of state the busi-
5 ness reputation and character of the applicant.

6 (i) A statement showing whether the applicant has previously
7 applied for a license, the result of the application, and whether
8 the applicant has ever been the holder of a dealer license which
9 was revoked or suspended.

10 (j) If the applicant is a corporation or partnership, a
11 statement showing whether a partner, employee, officer, or direc-
12 tor has been refused a license or has been the holder of a
13 license which was revoked or suspended.

14 (k) If the application is for a used or secondhand vehicle
15 parts dealer or an automotive recycler, all of the following:

16 (i) Evidence that the applicant maintains or will maintain
17 an established place of business.

18 (ii) Evidence that the applicant maintains or will maintain
19 a police book and vehicle parts purchase and sales records as
20 required under this act.

21 (iii) Evidence of worker's compensation insurance coverage
22 for employees classified under the standard industrial classifi-
23 cation number 4015, entitled "motor vehicle parts -- used" or
24 under the national council on compensation insurance code number
25 3821, entitled "automobile dismantling", if applicable.

26 (l) Certification that neither the applicant nor another
27 person named on the application is acting as the alter ego or in

1 the place of or on behalf of any other person or persons in
2 seeking the license. For the purpose of this subdivision, "alter
3 ego" means a person who acts for and on behalf of, or in the
4 place of, another person for purposes of obtaining a vehicle
5 dealer license.

6 (8) ~~(12) This subsection applies on and after July 1,~~
7 ~~1994.~~ A person shall make a separate application for a dealer
8 license for each county in which business is to be conducted and
9 a dealer, before moving 1 or more of his or her places of busi-
10 ness, or opening an additional place of business, shall apply to
11 the secretary of state for and obtain a supplemental dealer
12 license, for which a fee shall not be charged. The dealer
13 license shall entitle the dealer to conduct in the county covered
14 by the license the business of buying, selling, and dealing in
15 vehicles or salvageable parts. This subsection shall not apply
16 to a person licensed as a foreign salvage vehicle dealer under
17 section 248b.

18 (9) ~~(13) This subsection applies on and after July 1,~~
19 ~~1994.~~ The secretary of state shall classify and differentiate
20 vehicle dealers according to the type of activity they perform.
21 A dealer shall not engage in activities of a particular classifi-
22 cation as provided in this act unless the dealer is licensed in
23 that classification. An applicant may apply for a dealer license
24 in 1 or more of the following classifications:

25 (a) New vehicle dealer.

26 (b) Used or secondhand vehicle dealer.

- 1 (c) Used or secondhand vehicle parts dealer.
- 2 (d) Vehicle scrap metal processor.
- 3 (e) Vehicle salvage pool operator.
- 4 (f) Distressed vehicle transporter.
- 5 (g) Broker.
- 6 (h) Foreign salvage vehicle dealer.
- 7 (i) Automotive recycler.