

# SENATE BILL No. 805

October 11, 2005, Introduced by Senators GARCIA, JELINEK, GOSCHKA and HARDIMAN and referred to the Committee on Commerce and Labor.

A bill to amend 1949 PA 300, entitled  
"Michigan vehicle code,"  
by amending sections 14 and 248 (MCL 257.14 and 257.248), as  
amended by 2004 PA 495.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1       Sec. 14. (1) Except as provided in subsection (2),  
2       "established place of business" means the place actually occupied  
3       either continuously or at regular periods by a dealer or  
4       manufacturer where his or her books and records are kept and a  
5       large share of his or her business transacted.  
6       (2) Established place of business for a class (a) or class (b)  
7       dealer means premises that meet all of the following requirements:  
8       (a) The premises contain, except as otherwise provided in this

1 act, a permanently enclosed building or structure either owned,  
2 leased, or rented by a dealer, which is not a ~~residence,~~ tent,  
3 temporary stand, or any temporary quarters; the building or  
4 structure is continuously occupied in good faith for the purpose of  
5 selling, buying, trading, leasing, or otherwise dealing in motor  
6 vehicles; all books, records, and files necessary to conduct the  
7 business of a class (a) or class (b) dealer are maintained in the  
8 building or structure; and the building or structure houses an  
9 office of at least 150 square feet in size, equipped with standard  
10 office furniture, working utilities, a working restroom, and a  
11 working telephone listed in the name of the business on the  
12 dealer's license.

13 (b) The premises have land space of no less than 1,300 square  
14 feet to accommodate the display of a minimum of 10 vehicles of the  
15 kind and type that the dealer is licensed to sell and an additional  
16 650 square feet for customer parking. The display and customer  
17 parking areas shall be adequately surfaced and well-lit during  
18 business hours. **THIS SUBDIVISION DOES NOT APPLY TO A PERSON WHO WAS**  
19 **ENGAGED IN THE BUSINESS OF A CLASS (B) DEALER BEFORE DECEMBER 31,**  
20 **2004.**

21 (c) The premises are identified by an exterior sign displaying  
22 the name of the dealership that is permanently affixed to the  
23 building or land with letters clearly visible from a highway.

24 (d) The premises contain a conspicuous posting of the dealer's  
25 regular hours of operation. The posted hours shall be not less than  
26 ~~30~~ 20 hours per week.

27 (e) The premises contain a registered repair facility on site

1 for the repair and servicing of motor vehicles of a type sold at  
2 the established place of business, unless the dealer has entered  
3 into a written servicing agreement with a registered repair  
4 facility at a location not to exceed ~~10~~ 30 miles' distance from  
5 the established place of business. If repairs are conducted  
6 ~~pursuant to~~ **UNDER** a servicing agreement, the servicing agreement  
7 shall be conspicuously posted in the office.

8 (f) The premises meet all applicable zoning requirements and  
9 municipal requirements.

10 Sec. 248. (1) The secretary of state shall not grant a dealer  
11 license under this section until an investigation is made of the  
12 applicant's qualifications under this act, except that this  
13 subsection does not apply to license renewals. The secretary of  
14 state shall make the investigation within 15 days after receiving  
15 the application and make a report on the investigation.

16 (2) An applicant for a new vehicle dealer or a used or  
17 secondhand vehicle dealer or broker license shall include a  
18 properly executed bond or renewal certificate with the application.  
19 If a renewal certificate is used, the bond is considered renewed  
20 for each succeeding year in the same amount and with the same  
21 effect as an original bond. The bond shall be in the sum of  
22 \$10,000.00 with good and sufficient surety to be approved by the  
23 secretary of state. The bond shall indemnify or reimburse a  
24 purchaser, seller, lessee, financing agency, or governmental agency  
25 for monetary loss caused through fraud, cheating, or  
26 misrepresentation in the conduct of the vehicle business whether  
27 the fraud, cheating, or misrepresentation was made by the dealer or

1 by an employee, agent, or salesperson of the dealer. The surety  
2 shall make indemnification or reimbursement for a monetary loss  
3 only after judgment based on fraud, cheating, or misrepresentation  
4 has been entered in a court of record against the licensee. The  
5 bond shall also indemnify or reimburse the state for any sales tax  
6 deficiency as provided in the general sales tax act, 1933 PA 167,  
7 MCL 205.51 to 205.78, or use tax deficiency as provided in the use  
8 tax act, 1937 PA 94, MCL 205.91 to 205.111, for the year in which  
9 the bond is in force. The surety shall make indemnification or  
10 reimbursement only after final judgment has been entered in a court  
11 of record against the licensee. A dealer or applicant who has  
12 furnished satisfactory proof that a bond similar to the bond  
13 required by this subsection is executed and in force is exempt from  
14 the bond provisions set forth in this subsection. The aggregate  
15 liability of the surety shall not exceed the sum of the bond. The  
16 surety on the bond may cancel the bond upon giving 30 days' notice  
17 in writing to the secretary of state and thereafter is not liable  
18 for a breach of condition occurring after the effective date of the  
19 cancellation.

20 (3) An applicant for a new vehicle dealer or a used or  
21 secondhand vehicle dealer license shall apply for not less than 2  
22 dealer plates as provided by section 245 and shall include with the  
23 application the proper fee as provided by section 803.

24 (4) As a condition precedent to the granting of a license, a  
25 dealer shall file with the secretary of state an irrevocable  
26 written stipulation, authenticated by the applicant, stipulating  
27 and agreeing that legal process affecting the dealer, served on the

1 secretary of state or a deputy of the secretary of state, has the  
2 same effect as if personally served on the dealer. This appointment  
3 remains in force as long as the dealer has any outstanding  
4 liability within this state.

5 (5) A person shall not carry on or conduct the business of  
6 buying, selling, brokering, leasing, negotiating a lease, or  
7 dealing in 5 or more vehicles of a type required to be titled under  
8 this act in a 12-month period unless the person obtains a dealer  
9 license from the secretary of state authorizing the carrying on or  
10 conducting of that business. A person shall not carry on or conduct  
11 the business of buying, selling, brokering, leasing, negotiating a  
12 lease, or dealing in 5 or more distressed, late model vehicles or  
13 salvageable parts to 5 or more of those vehicles in a 12-month  
14 period unless the person obtains a used or secondhand vehicle parts  
15 dealer, an automotive recycler, or a salvage pool license from the  
16 secretary of state or is an insurance company admitted to conduct  
17 business in this state. A person shall not carry on or conduct the  
18 business of buying 5 or more vehicles in a 12-month period to  
19 process into scrap metal or store or display 5 or more vehicles in  
20 a 12-month period as an agent or escrow agent of an insurance  
21 company unless the person obtains a dealer license from the  
22 secretary of state. A vehicle scrap metal processor who does not  
23 purchase vehicles or salvageable parts from unlicensed persons is  
24 not required to obtain a dealer license. A person from another  
25 state shall not purchase, sell, or otherwise deal in distressed,  
26 late model vehicles or salvageable parts unless the person obtains  
27 a foreign salvage vehicle dealer license from the secretary of

1 state as prescribed under section 248b. A person, including a  
2 dealer, shall not purchase or acquire a distressed, late model  
3 vehicle or a salvageable part through a salvage pool, auction, or  
4 broker without a license as a salvage vehicle agent. The secretary  
5 of state shall investigate and seek prosecution, if necessary, of  
6 persons allegedly conducting a business without a license.

7 (6) The application for a dealer license shall be in the form  
8 prescribed by the secretary of state and shall be signed by the  
9 applicant. In addition to other information as may be required by  
10 the secretary of state, the application shall include all of the  
11 following:

12 (a) ~~Name~~ **THE NAME** of **THE** applicant.

13 (b) ~~Location~~ **THE LOCATION** of **THE** applicant's established  
14 place of business in this state, together with written verification  
15 from the appropriate governing or zoning authority that the  
16 established place of business meets all applicable municipal and  
17 zoning requirements.

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

19 (d) If the business is a corporation, the state of  
20 incorporation.

21 (e) ~~Name~~ **THE NAME**, address, date of birth, and social  
22 security number of each owner or partner and, if a corporation, the  
23 name, address, date of birth, and social security number of each of  
24 the principal officers.

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

27 (g) If new vehicles are to be sold, the make to be handled.

1 Each new vehicle dealer shall send with the application for license  
2 a certification that the dealer holds a bona fide contract to act  
3 as factory representative, factory distributor, or distributor  
4 representative to sell at retail ..... (the make of vehicle to  
5 be sold).

6 (h) A statement of the previous history, record, and  
7 associations of the applicant and of each owner, partner, officer,  
8 and director. The statement shall be sufficient to establish to the  
9 satisfaction of the secretary of state the business reputation and  
10 character of the applicant.

11 (i) A statement showing whether the applicant has previously  
12 applied for a license, the result of the application, and whether  
13 the applicant has ever been the holder of a dealer license that was  
14 revoked or suspended.

15 (j) If the applicant is a corporation or partnership, a  
16 statement showing whether a partner, employee, officer, or director  
17 has been refused a license or has been the holder of a license that  
18 was revoked or suspended.

19 (k) If the application is for a used or secondhand vehicle  
20 parts dealer or an automotive recycler, ~~it~~ **THE APPLICATION** shall  
21 include all of the following:

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

24 (ii) Evidence that the applicant maintains or will maintain a  
25 police book and vehicle parts purchase and sales and lease records  
26 as required under this act.

27 (iii) Evidence of worker's compensation insurance coverage for

1 employees classified under the North American industrial  
2 classification system number 42114, entitled "motor vehicle parts  
3 (used) wholesalers" or under the national council on compensation  
4 insurance classification code number 3821, entitled "automobile  
5 dismantling and drivers", if applicable.

6 (l) Certification that neither the applicant nor another person  
7 named on the application is acting as the alter ego of any other  
8 person ~~or persons~~ in seeking the license. For the purpose of this  
9 subdivision, "alter ego" means a person who acts for and on behalf  
10 of, or in the place of, another person for purposes of obtaining a  
11 vehicle dealer license.

12 (7) A person shall apply separately for a dealer license for  
13 each county in which business is to be conducted. Before moving 1  
14 or more of his or her places of business or opening an additional  
15 place of business, a dealer shall apply to the secretary of state  
16 for and obtain a supplemental dealer license, for which a fee shall  
17 not be charged. A supplemental dealer license shall be issued only  
18 for a location, including a tent, temporary stand, or any temporary  
19 quarters, that does not meet the definition of an established place  
20 of business, within the county in which the dealer's established  
21 place of business is located. A dealer license entitles the dealer  
22 to conduct the business of buying, selling, leasing, and dealing in  
23 vehicles or salvageable parts in the county covered by the license.  
24 The dealer license shall also entitle the dealer to conduct at any  
25 other licensed dealer's established place of business in this state  
26 only the business of buying, selling, leasing, or dealing in  
27 vehicles at wholesale.



1           (8) The secretary of state shall classify and differentiate  
2 vehicle dealers according to the type of activity they perform. A  
3 dealer shall not engage in activities of a particular  
4 classification as provided in this act unless the dealer is  
5 licensed in that classification. An applicant may apply for a  
6 dealer license in 1 or more of the following classifications:

7           (a) New vehicle dealer.

8           (b) Used or secondhand vehicle dealer.

9           (c) Used or secondhand vehicle parts dealer.

10          (d) Vehicle scrap metal processor.

11          (e) Vehicle salvage pool operator.

12          (f) Distressed vehicle transporter.

13          (g) Broker.

14          (h) Foreign salvage vehicle dealer.

15          (i) Automotive recycler.

16          (j) Beginning April 1, 2005, wholesaler.

17           (9) A dealer license expires on December 31 of the last year  
18 for which the license is issued. The secretary of state may renew a  
19 dealer license for a period of not more than 4 years upon  
20 application and payment of the fee required by section 807.

21           (10) A dealer may conduct the business of buying, selling, or  
22 dealing in motor homes, trailer coaches, trailers, or pickup  
23 campers at a recreational vehicle show conducted at a location in  
24 this state without obtaining a separate or supplemental license  
25 under subsection (7) if all of the following apply:

26           (a) The dealer is licensed as a new vehicle dealer or used or  
27 secondhand vehicle dealer.

1           (b) The duration of the recreational vehicle show is not more  
2 than 14 days.

3           (c) Not less than 14 days before the beginning date of the  
4 recreational vehicle show, the show producer notifies the secretary  
5 of state, in a manner and form prescribed by the secretary of  
6 state, that the recreational vehicle show is scheduled, the  
7 location, dates, and times of the recreational vehicle show, and  
8 the name, address, and dealer license number of each dealer  
9 participating in the recreational vehicle show.