

SB1602



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB1602

Introduced 2/15/2019, by Sen. Elgie R. Sims, Jr.

SYNOPSIS AS INTRODUCED:

625 ILCS 5/5-101.2

Amends the Illinois Vehicle Code. Changes the definition of "community-based manufactured home dealer" to include a person who buys a new manufactured home or park model that is located within the manufactured home community pursuant to a franchise agreement or similar agreement with a manufacturer, or a used manufactured home or park model located within the manufactured home community, with either the new or used manufactured home also able to be located in a different manufactured home community that is owned or managed by the community-based manufactured home dealer. Effective immediately.

LRB101 07777 TAE 52826 b

A BILL FOR

1 AN ACT concerning transportation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Vehicle Code is amended by changing
5 Section 5-101.2 as follows:

6 (625 ILCS 5/5-101.2)

7 Sec. 5-101.2. Manufactured home dealers; licensing.

8 (a) For the purposes of this Section, the following words
9 shall have the meanings ascribed to them as follows:

10 "Community-based manufactured home dealer" means an
11 individual or entity that operates a tract of land or 2 or
12 more contiguous tracts of land which contain sites with the
13 necessary utilities for 5 or more independent manufactured
14 homes for permanent habitation, either free of charge or
15 for revenue purposes, and shall include any building,
16 structure, vehicle, or enclosure used or intended for use
17 as a part of the equipment of the manufactured home park
18 who may, incidental to the operation of the manufactured
19 home community, sell, trade, or buy a manufactured home or
20 park model that is located within the manufactured home
21 community pursuant to a franchise agreement or similar
22 agreement with a manufacturer, or a used manufactured home
23 or park model located within the manufactured home

1 community, with either the new or used manufactured home
2 also able to be ~~or is~~ located in a different manufactured
3 home community that is owned or managed by the
4 community-based manufactured home dealer.

5 "Established place of business" means the place owned
6 or leased and occupied by any person duly licensed or
7 required to be licensed as a manufactured home dealer or a
8 community-based manufactured home dealer for the purpose
9 of engaging in selling, buying, bartering, displaying,
10 exchanging, or dealing in, on consignment or otherwise,
11 manufactured homes or park models and for such other
12 ancillary purposes as may be permitted by the Secretary by
13 rule. An established place of business shall include a
14 single or central office in which the manufactured home
15 dealer's or community-based manufactured home dealer's
16 records shall be separate and distinct from any other
17 business or tenant which may occupy space in the same
18 building, except as provided in this Section, and the
19 office shall not be located in a tent, temporary stand,
20 temporary address, room or rooms in a hotel or rooming
21 house, nor the premises occupied by a single or multiple
22 unit residence, unless the multiple unit residence has a
23 separate and distinct office.

24 "Manufactured home" means a factory assembled
25 structure built on a permanent chassis, transportable in
26 one or more sections in the travel mode, incapable of

1 self-propulsion, and bears a label indicating the
2 manufacturer's compliance with the United States
3 Department of Housing and Urban Development standards, as
4 applicable, that is without a permanent foundation and is
5 designed for year round occupancy as a single-family
6 residence when connected to approved water, sewer, and
7 electrical utilities.

8 "Manufactured home dealer" means an individual or
9 entity that engages in the business of acquiring or
10 disposing of a manufactured home or park model, either a
11 new manufactured home or park model, pursuant to a
12 franchise agreement with a manufacturer, or used
13 manufactured homes or park models, and who has an
14 established place of business that is not in a residential
15 community-based setting.

16 "Park model" means a vehicle that is incapable of
17 self-propulsion that is less than 400 square feet of
18 habitable space that is built to American National
19 Standards Institute (ANSI) standards that prohibits
20 occupancy on a permanent basis and is built on a vehicle
21 chassis.

22 "Supplemental license" means a license that a
23 community-based manufactured home dealer receives and
24 displays at locations in which the licensee is authorized
25 to sell, buy, barter, display, exchange, or deal in, on
26 consignment or otherwise, manufactured homes or park

1 models, but is not the established place of business of the
2 licensee.

3 (b) No person shall engage in this State in the business of
4 selling or dealing in, on consignment or otherwise,
5 manufactured homes or park models of any make, or act as an
6 intermediary, agent, or broker for any manufactured home or
7 park model purchaser, other than as a salesperson or to
8 represent or advertise that he or she is so engaged, or intends
9 to so engage, in the business, unless licensed to do so by the
10 Secretary of State under the provisions of this Section.

11 (c) An application for a manufactured home dealer's license
12 or a community-based manufactured home dealer's license shall
13 be filed with the Secretary of State and duly verified by oath,
14 on such form as the Secretary of State may by rule prescribe
15 and shall contain all of the following:

16 (1) The name and type of business organization of the
17 applicant, and his or her established and additional places
18 of business, if any, in this State.

19 (2) If the applicant is a corporation, a list of its
20 officers, directors, and shareholders having a 10% or
21 greater ownership interest in the corporation. If the
22 applicant is a sole proprietorship, a partnership, a
23 limited liability company, an unincorporated association,
24 a trust, or any similar form of business organization, the
25 name and residence address of the proprietor, or the name
26 and residence address of each partner, member, officer,

1 director, trustee, or manager.

2 (3) The make or makes of new manufactured homes or park
3 models that the applicant will offer for sale at retail in
4 the State.

5 (4) The name of each manufacturer or franchised
6 distributor, if any, of new manufactured homes or park
7 models with whom the applicant has contracted for the sale
8 of new manufactured homes or park models. As evidence of
9 this fact, the application shall be accompanied by a signed
10 statement from each manufacturer or franchised
11 distributor.

12 (5) A statement that the applicant has been approved
13 for registration under the Retailers' Occupation Tax Act by
14 the Department of Revenue, provided that this requirement
15 does not apply to a manufactured home dealer who is already
16 licensed with the Secretary of State, and who is merely
17 applying for a renewal of his or her license. As evidence
18 of this fact, the application shall be accompanied by a
19 certification from the Department of Revenue showing that
20 the Department has approved the applicant for registration
21 under the Retailers' Occupation Tax Act.

22 (6) An application for:

23 (A) a manufactured home dealer's license, when the
24 applicant is selling new manufactured homes or park
25 models on behalf of a manufacturer of manufactured
26 homes or park models, or 5 or more used manufactured

1 homes or park models during the calendar year, shall be
2 accompanied by a \$1,000 license fee for the applicant's
3 established place of business, and \$100 for each
4 additional place of business, if any, to which the
5 application pertains. If the application is made after
6 June 15 in any year, the license fee shall be \$500 for
7 the applicant's established place of business, and \$50
8 for each additional place of business, if any, to which
9 the application pertains. License fees shall be
10 returnable only in the event that the application is
11 denied by the Secretary of State; or

12 (B) a community-based manufactured home dealer's
13 license, when the applicant is selling 5 or more
14 manufactured homes during the calendar year not on
15 behalf of a manufacturer of manufactured homes, but
16 within a community setting, shall be accompanied by a
17 license fee of \$500 for the applicant's established
18 place of business, and \$50 for each additional place of
19 business, if any to which the application pertains. If
20 the application is made after June 15 in any year, the
21 license fee shall be \$250 for the applicant's
22 established place of business, and \$50 for each
23 additional place of business, if any, to which the
24 application pertains. License fees shall be returnable
25 only in the event that the application is denied by the
26 Secretary of State.

1 Of the monies received by the Secretary of State as
2 license fees under this paragraph (6), 95% shall be
3 deposited into the General Revenue Fund and 5% into the
4 Motor Vehicle License Plate Fund.

5 (7) A statement that the applicant's officers,
6 directors, and shareholders having a 10% or greater
7 ownership interest therein, proprietor, a partner, member,
8 officer, director, trustee, manager, or other principals
9 in the business, have not committed in the past 3 years any
10 one violation, as determined in any civil, criminal, or
11 administrative hearing proceeding, of any one of the
12 following Acts:

13 (A) the Anti Theft Laws of the Illinois Vehicle
14 Code;

15 (B) the Certificate of Title Laws of the Illinois
16 Vehicle Code;

17 (C) the Offenses against Registration and
18 Certificates of Title Laws of the Illinois Vehicle
19 Code;

20 (D) the Dealers, Transporters, Wreckers, and
21 Rebuilders Laws of the Illinois Vehicle Code;

22 (E) Section 21-2 of the Criminal Code of 2012
23 (criminal trespass to vehicles);

24 (F) the Retailers Occupation Tax Act;

25 (G) the Consumer Finance Act;

26 (H) the Consumer Installment Loan Act;

- 1 (I) the Retail Installment Sales Act;
- 2 (J) the Motor Vehicle Retail Installment Sales
- 3 Act;
- 4 (K) the Interest Act;
- 5 (L) the Illinois Wage Assignment Act;
- 6 (M) Part 8 of Article XII of the Code of Civil
- 7 Procedure; or
- 8 (N) the Consumer Fraud Act.

9 (8) A bond or certificate of deposit in the amount of

10 \$20,000 for each license holder applicant intending to act

11 as a manufactured home dealer or community-based

12 manufactured home dealer under this Section. The bond shall

13 be for the term of the license, for which application is

14 made, and shall expire not sooner than December 31 of the

15 year for which the license was issued. The bond shall run

16 to the People of the State of Illinois, with surety by a

17 bonding or insurance company authorized to do business in

18 this State. It shall be conditioned upon the proper

19 transmittal of all title and registration fees and taxes

20 (excluding taxes under the Retailers' Occupation Tax Act)

21 accepted by the applicant as a manufactured home dealer.

22 (9) Dealers in business for over 5 years may substitute

23 a certificate of insurance in lieu of the bond or

24 certificate of deposit upon renewing their license.

25 (10) Any other information concerning the business of

26 the applicant as the Secretary of State may by rule

1 prescribe.

2 (11) A statement that the applicant has read and
3 understands Chapters 1 through 5 of this Code.

4 (d) Any change which renders no longer accurate any
5 information contained in any application for a license under
6 this Section shall be amended within 30 days after the
7 occurrence of the change on a form the Secretary of State may
8 prescribe, by rule, accompanied by an amendatory fee of \$25.

9 (e) The Secretary of State shall, within a reasonable time
10 after receipt, examine an application submitted to him or her
11 under this Section, and unless he or she makes a determination
12 that the application submitted to him or her does not conform
13 with the requirements of this Section or that grounds exist for
14 a denial of the application under Section 5-501 of this
15 Chapter, grant the applicant an initial manufactured home
16 dealer's license or a community-based manufactured home
17 dealer's license in writing for his or her established place of
18 business and a supplemental license in writing for each
19 additional place of business in a form the Secretary may
20 prescribe by rule, which shall include the following:

21 (1) the name of the person or entity licensed;

22 (2) if a corporation, the name and address of its
23 officers; if a sole proprietorship, a partnership, an
24 unincorporated association, or any similar form of
25 business organization, the name and address of the
26 proprietor, or the name and address of each partner,

1 member, officer, director, trustee or manager; or if a
2 limited liability company, the name and address of the
3 general partner or partners, or managing member or members;

4 (3) in the case of an original license, the established
5 place of business of the licensee;

6 (4) in the case of a supplemental license, the
7 established place of business of the licensee and the
8 additional place of business to which the supplemental
9 license pertains; and

10 (5) if applicable, the make or makes of new
11 manufactured homes or park models to which a manufactured
12 home dealer is licensed to sell.

13 (f) The appropriate instrument evidencing the license or a
14 certified copy of the instrument, provided by the Secretary of
15 State, shall be kept posted conspicuously in the established
16 place of business of the licensee and in each additional place
17 of business, if any, maintained by the licensee, unless the
18 licensee is a community-based manufactured home dealer, then
19 the license shall be posted in the community-based manufactured
20 home dealer's central office and it shall include a list of the
21 other locations that the community-based manufactured home
22 dealer may oversee.

23 (g) Except as provided in subsection (i) of this Section,
24 all licenses granted under this Section shall expire by
25 operation of law on December 31 of the calendar year for which
26 the licenses were granted, unless sooner revoked or cancelled

1 under the provisions of Section 5-501 of this Chapter.

2 (h) All persons licensed as a manufactured home dealer or a
3 community-based manufactured home dealer are required to
4 furnish each purchaser of a manufactured home or park model:

5 (1) in the case of a new manufactured home or park
6 model, a manufacturer's statement of origin, and in the
7 case of a previously owned manufactured home or park model,
8 a certificate of title, in either case properly assigned to
9 the purchaser;

10 (2) a statement verified under oath that all
11 identifying numbers on the vehicle match the identifying
12 numbers on the certificate of title or manufacturer's
13 statement of origin;

14 (3) a bill of sale properly executed on behalf of the
15 purchaser;

16 (4) a copy of the Uniform Invoice-transaction
17 reporting return form referred to in Section 5-402; and

18 (5) for a new manufactured home or park model, a
19 warranty, and in the case of a manufactured home or park
20 model for which the warranty has been reinstated, a copy of
21 the warranty; if no warranty is provided, a disclosure or
22 statement that the manufactured home or park model is being
23 sold "AS IS".

24 (i) This Section shall not apply to a (i) seller who
25 privately owns his or her manufactured home or park model as
26 his or her main residence and is selling the manufactured home

1 or park model to another individual or to a licensee; (ii) a
2 retailer or entity licensed under either Section 5-101 or 5-102
3 of this Code; or (iii) an individual or entity licensed to sell
4 truck campers, travel trailers, motor homes, or mini motor
5 homes as defined by this Code. Any vehicle not covered by this
6 Section that requires an individual or entity to obtain a
7 license to sell 5 or more vehicles must obtain a license under
8 the relevant provisions of this Code.

9 (j) This Section shall not apply to any person licensed
10 under the Real Estate License Act of 2000.

11 (k) The Secretary of State may adopt any rules necessary to
12 implement this Section.

13 (Source: P.A. 99-593, eff. 7-22-16.)

14 Section 99. Effective date. This Act takes effect upon
15 becoming law.