

# HB0483



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

**HB0483**

Introduced 2/1/2007, by Rep. Jack McGuire

#### SYNOPSIS AS INTRODUCED:

625 ILCS 5/5-102

from Ch. 95 1/2, par. 5-102

Amends the Illinois Vehicle Code with regard to new and used vehicle dealer license fees. Provides that the fee varies according to the number of vehicles sold by the dealer during the previous year. Provides that a dealer's license application shall indicate the number of vehicles sold by the dealer the previous year, supported by documentation prescribed by the Secretary of State. Sets a new schedule of license fees for new and used vehicle dealers, including one fee for the applicant's established place of business and a lower fee for each additional place of business, if any, to which the application pertains. Effective immediately.

LRB095 07271 DRH 27409 b

FISCAL NOTE ACT  
MAY APPLY

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 5-102 as follows:

6 (625 ILCS 5/5-102) (from Ch. 95 1/2, par. 5-102)

7 Sec. 5-102. Used vehicle dealers must be licensed.

8 (a) No person, other than a licensed new vehicle dealer,  
9 shall engage in the business of selling or dealing in, on  
10 consignment or otherwise, 5 or more used vehicles of any make  
11 during the year (except house trailers as authorized by  
12 paragraph (j) of this Section and rebuilt salvage vehicles sold  
13 by their rebuilders to persons licensed under this Chapter), or  
14 act as an intermediary, agent or broker for any licensed dealer  
15 or vehicle purchaser (other than as a salesperson) or represent  
16 or advertise that he is so engaged or intends to so engage in  
17 such business unless licensed to do so by the Secretary of  
18 State under the provisions of this Section.

19 (b) An application for a used vehicle dealer's license  
20 shall be filed with the Secretary of State, duly verified by  
21 oath, in such form as the Secretary of State may by rule or  
22 regulation prescribe and shall contain:

23 1. The name and type of business organization

1 established and additional places of business, if any, in  
2 this State.

3 2. If the applicant is a corporation, a list of its  
4 officers, directors, and shareholders having a ten percent  
5 or greater ownership interest in the corporation, setting  
6 forth the residence address of each; if the applicant is a  
7 sole proprietorship, a partnership, an unincorporated  
8 association, a trust, or any similar form of business  
9 organization, the names and residence address of the  
10 proprietor or of each partner, member, officer, director,  
11 trustee or manager.

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

22 4. A statement that the applicant has complied with the  
23 appropriate liability insurance requirement. A Certificate  
24 of Insurance in a solvent company authorized to do business  
25 in the State of Illinois shall be included with each  
26 application covering each location at which he proposes to

1 act as a used vehicle dealer. The policy must provide  
2 liability coverage in the minimum amounts of \$100,000 for  
3 bodily injury to, or death of, any person, \$300,000 for  
4 bodily injury to, or death of, two or more persons in any  
5 one accident, and \$50,000 for damage to property. Such  
6 policy shall expire not sooner than December 31 of the year  
7 for which the license was issued or renewed. The expiration  
8 of the insurance policy shall not terminate the liability  
9 under the policy arising during the period for which the  
10 policy was filed. Trailer and mobile home dealers are  
11 exempt from this requirement.

12 If the permitted user has a liability insurance policy  
13 that provides automobile liability insurance coverage of  
14 at least \$100,000 for bodily injury to or the death of any  
15 person, \$300,000 for bodily injury to or the death of any 2  
16 or more persons in any one accident, and \$50,000 for damage  
17 to property, then the permitted user's insurer shall be the  
18 primary insurer and the dealer's insurer shall be the  
19 secondary insurer. If the permitted user does not have a  
20 liability insurance policy that provides automobile  
21 liability insurance coverage of at least \$100,000 for  
22 bodily injury to or the death of any person, \$300,000 for  
23 bodily injury to or the death of any 2 or more persons in  
24 any one accident, and \$50,000 for damage to property, or  
25 does not have any insurance at all, then the dealer's  
26 insurer shall be the primary insurer and the permitted

1 user's insurer shall be the secondary insurer.

2 When a permitted user is "test driving" a used vehicle  
3 dealer's automobile, the used vehicle dealer's insurance  
4 shall be primary and the permitted user's insurance shall  
5 be secondary.

6 As used in this paragraph 4, a "permitted user" is a  
7 person who, with the permission of the used vehicle dealer  
8 or an employee of the used vehicle dealer, drives a vehicle  
9 owned and held for sale or lease by the used vehicle dealer  
10 which the person is considering to purchase or lease, in  
11 order to evaluate the performance, reliability, or  
12 condition of the vehicle. The term "permitted user" also  
13 includes a person who, with the permission of the used  
14 vehicle dealer, drives a vehicle owned or held for sale or  
15 lease by the used vehicle dealer for loaner purposes while  
16 the user's vehicle is being repaired or evaluated.

17 As used in this paragraph 4, "test driving" occurs when  
18 a permitted user who, with the permission of the used  
19 vehicle dealer or an employee of the used vehicle dealer,  
20 drives a vehicle owned and held for sale or lease by a used  
21 vehicle dealer that the person is considering to purchase  
22 or lease, in order to evaluate the performance,  
23 reliability, or condition of the vehicle.

24 As used in this paragraph 4, "loaner purposes" means  
25 when a person who, with the permission of the used vehicle  
26 dealer, drives a vehicle owned or held for sale or lease by

1 the used vehicle dealer while the user's vehicle is being  
2 repaired or evaluated.

3 5. An application for a used vehicle dealer's license  
4 shall indicate the number of vehicles sold by the dealer  
5 during the previous year, supported by documentation  
6 prescribed by the Secretary, and shall be accompanied by  
7 the following license fees:

8 (A) for dealers that sold 2,500 or more vehicles  
9 the previous year: \$1,500 for the applicant's  
10 established place of business; \$750 for each  
11 additional place of business, if any, to which the  
12 application pertains;

13 (B) for dealers that sold 1,500 to 2,499 vehicles  
14 the previous year: \$1,250 for the applicant's  
15 established place of business; \$625 for each  
16 additional place of business, if any, to which the  
17 application pertains;

18 (C) for dealers that sold 750 to 1,499 vehicles the  
19 previous year: \$1,000 for the applicant's established  
20 place of business, \$500 for each additional place of  
21 business, if any, to which the application pertains;

22 (D) for dealers that sold 500 to 749 vehicles the  
23 previous year: \$750 for the applicant's established  
24 place of business; \$375 for each additional place of  
25 business, if any, to which the application pertains;

26 (E) for dealers that sold 200 to 499 vehicles the

1 previous year: \$500 for the applicant's established  
2 place of business; \$250 for each additional place of  
3 business, if any, to which the application pertains;

4 (F) for dealers that sold 0 to 199 vehicles the  
5 previous year: \$250 for the applicant's established  
6 place of business; \$125 for each additional place of  
7 business, if any, to which the application pertains;  
8 but if the application is made after June 15 of any  
9 year, the license fee shall be \$125 for the applicant's  
10 established place of business and \$62.50 for each  
11 additional place of business, if any, to which the  
12 application pertains.

13 5.5. License fees for dealers that were not in business  
14 the previous year: \$1,000 for the applicant's primary place of  
15 business and \$100 for each additional place of business to  
16 which the application pertains; but if the application is made  
17 after June 15 of any year, the license fee shall be \$500 for  
18 the applicant's primary place of business and \$50 for each  
19 additional place of business, if any, to which the application  
20 pertains.

21 ~~\$1,000 for applicant's established place of business,~~  
22 ~~and \$50 for each additional place of business, if any, to~~  
23 ~~which the application pertains; however, if the~~  
24 ~~application is made after June 15 of any year, the license~~  
25 ~~fee shall be \$500 for applicant's established place of~~  
26 ~~business plus \$25 for each additional place of business, if~~

1 ~~any, to which the application pertains.~~

2 License fees shall be returnable only in the event that  
3 the application is denied by the Secretary of State. Of the  
4 money received by the Secretary of State as license fees  
5 under this Section for the 2004 licensing year and  
6 thereafter, 95% shall be deposited into the General Revenue  
7 Fund.

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

16 (A) The Anti Theft Laws of the Illinois Vehicle  
17 Code;

18 (B) The Certificate of Title Laws of the Illinois  
19 Vehicle Code;

20 (C) The Offenses against Registration and  
21 Certificates of Title Laws of the Illinois Vehicle  
22 Code;

23 (D) The Dealers, Transporters, Wreckers and  
24 Rebuilders Laws of the Illinois Vehicle Code;

25 (E) Section 21-2 of the Illinois Criminal Code of  
26 1961, Criminal Trespass to Vehicles; or



1 (F) The Retailers' Occupation Tax Act.

2 7. A statement that the applicant's officers,  
3 directors, shareholders having a 10% or greater ownership  
4 interest therein, proprietor, partner, member, officer,  
5 director, trustee, manager or other principals in the  
6 business have not committed in any calendar year 3 or more  
7 violations, as determined in any civil or criminal or  
8 administrative proceedings, of any one or more of the  
9 following Acts:

10 (A) The Consumer Finance Act;

11 (B) The Consumer Installment Loan Act;

12 (C) The Retail Installment Sales Act;

13 (D) The Motor Vehicle Retail Installment Sales  
14 Act;

15 (E) The Interest Act;

16 (F) The Illinois Wage Assignment Act;

17 (G) Part 8 of Article XII of the Code of Civil  
18 Procedure; or

19 (H) The Consumer Fraud Act.

20 8. A bond or Certificate of Deposit in the amount of  
21 \$20,000 for each location at which the applicant intends to  
22 act as a used vehicle dealer. The bond shall be for the  
23 term of the license, or its renewal, for which application  
24 is made, and shall expire not sooner than December 31 of  
25 the year for which the license was issued or renewed. The  
26 bond shall run to the People of the State of Illinois, with

1           surety by a bonding or insurance company authorized to do  
2           business in this State. It shall be conditioned upon the  
3           proper transmittal of all title and registration fees and  
4           taxes (excluding taxes under the Retailers' Occupation Tax  
5           Act) accepted by the applicant as a used vehicle dealer.

6           9. Such other information concerning the business of  
7           the applicant as the Secretary of State may by rule or  
8           regulation prescribe.

9           10. A statement that the applicant understands Chapter  
10          1 through Chapter 5 of this Code.

11          (c) Any change which renders no longer accurate any  
12          information contained in any application for a used vehicle  
13          dealer's license shall be amended within 30 days after the  
14          occurrence of each change on such form as the Secretary of  
15          State may prescribe by rule or regulation, accompanied by an  
16          amendatory fee of \$2.

17          (d) Anything in this Chapter to the contrary  
18          notwithstanding, no person shall be licensed as a used vehicle  
19          dealer unless such person maintains an established place of  
20          business as defined in this Chapter.

21          (e) The Secretary of State shall, within a reasonable time  
22          after receipt, examine an application submitted to him under  
23          this Section. Unless the Secretary makes a determination that  
24          the application submitted to him does not conform to this  
25          Section or that grounds exist for a denial of the application  
26          under Section 5-501 of this Chapter, he must grant the

1 applicant an original used vehicle dealer's license in writing  
2 for his established place of business and a supplemental  
3 license in writing for each additional place of business in  
4 such form as he may prescribe by rule or regulation which shall  
5 include the following:

6 1. The name of the person licensed;

7 2. If a corporation, the name and address of its  
8 officers or if a sole proprietorship, a partnership, an  
9 unincorporated association or any similar form of business  
10 organization, the name and address of the proprietor or of  
11 each partner, member, officer, director, trustee or  
12 manager;

13 3. In case of an original license, the established  
14 place of business of the licensee;

15 4. In the case of a supplemental license, the  
16 established place of business of the licensee and the  
17 additional place of business to which such supplemental  
18 license pertains.

19 (f) The appropriate instrument evidencing the license or a  
20 certified copy thereof, provided by the Secretary of State  
21 shall be kept posted, conspicuously, in the established place  
22 of business of the licensee and in each additional place of  
23 business, if any, maintained by such licensee.

24 (g) Except as provided in subsection (h) of this Section,  
25 all used vehicle dealer's licenses granted under this Section  
26 expire by operation of law on December 31 of the calendar year

1 for which they are granted unless sooner revoked or cancelled  
2 under Section 5-501 of this Chapter.

3 (h) A used vehicle dealer's license may be renewed upon  
4 application and payment of the fee required herein, and  
5 submission of proof of coverage by an approved bond under the  
6 "Retailers' Occupation Tax Act" or proof that applicant is not  
7 subject to such bonding requirements, as in the case of an  
8 original license, but in case an application for the renewal of  
9 an effective license is made during the month of December, the  
10 effective license shall remain in force until the application  
11 for renewal is granted or denied by the Secretary of State.

12 (i) All persons licensed as a used vehicle dealer are  
13 required to furnish each purchaser of a motor vehicle:

14 1. A certificate of title properly assigned to the  
15 purchaser;

16 2. A statement verified under oath that all identifying  
17 numbers on the vehicle agree with those on the certificate  
18 of title;

19 3. A bill of sale properly executed on behalf of such  
20 person;

21 4. A copy of the Uniform Invoice-transaction reporting  
22 return referred to in Section 5-402 of this Chapter;

23 5. In the case of a rebuilt vehicle, a copy of the  
24 Disclosure of Rebuilt Vehicle Status; and

25 6. In the case of a vehicle for which the warranty has  
26 been reinstated, a copy of the warranty.

1           (j) A real estate broker holding a valid certificate of  
2 registration issued pursuant to "The Real Estate Brokers and  
3 Salesmen License Act" may engage in the business of selling or  
4 dealing in house trailers not his own without being licensed as  
5 a used vehicle dealer under this Section; however such broker  
6 shall maintain a record of the transaction including the  
7 following:

8                   (1) the name and address of the buyer and seller,

9                   (2) the date of sale,

10                   (3) a description of the mobile home, including the  
11 vehicle identification number, make, model, and year, and

12                   (4) the Illinois certificate of title number.

13           The foregoing records shall be available for inspection by  
14 any officer of the Secretary of State's Office at any  
15 reasonable hour.

16           (k) Except at the time of sale or repossession of the  
17 vehicle, no person licensed as a used vehicle dealer may issue  
18 any other person a newly created key to a vehicle unless the  
19 used vehicle dealer makes a copy of the driver's license or  
20 State identification card of the person requesting or obtaining  
21 the newly created key. The used vehicle dealer must retain the  
22 copy for 30 days.

23           A used vehicle dealer who violates this subsection (k) is  
24 guilty of a petty offense. Violation of this subsection (k) is  
25 not cause to suspend, revoke, cancel, or deny renewal of the  
26 used vehicle dealer's license.

1 (Source: P.A. 92-391, eff. 8-16-01; 92-835, eff. 6-1-03; 93-32,  
2 eff. 7-1-03.)

3 Section 99. Effective date. This Act takes effect upon  
4 becoming law.