

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 Sections 5-101, 5-102, and 5-501 and by adding Section 5-102.7
6 as follows:

7 (625 ILCS 5/5-101) (from Ch. 95 1/2, par. 5-101)

8 Sec. 5-101. New vehicle dealers must be licensed.

9 (a) No person shall engage in this State in the business of
10 selling or dealing in, on consignment or otherwise, new
11 vehicles of any make, or act as an intermediary or agent or
12 broker for any licensed dealer or vehicle purchaser other than
13 as a salesperson, or represent or advertise that he is so
14 engaged or intends to so engage in such business unless
15 licensed to do so in writing by the Secretary of State under
16 the provisions of this Section.

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

21 1. The name and type of business organization of the
22 applicant and his established and additional places of
23 business, if any, in this State.

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

10 3. The make or makes of new vehicles which the
11 applicant will offer for sale at retail in this State.

12 4. The name of each manufacturer or franchised
13 distributor, if any, of new vehicles with whom the
14 applicant has contracted for the sale of such new vehicles.
15 As evidence of this fact, the application shall be
16 accompanied by a signed statement from each such
17 manufacturer or franchised distributor. If the applicant
18 is in the business of offering for sale new conversion
19 vehicles, trucks or vans, except for trucks modified to
20 serve a special purpose which includes but is not limited
21 to the following vehicles: street sweepers, fertilizer
22 spreaders, emergency vehicles, implements of husbandry or
23 maintenance type vehicles, he must furnish evidence of a
24 sales and service agreement from both the chassis
25 manufacturer and second stage manufacturer.

26 5. A statement that the applicant has been approved for

1 registration under the Retailers' Occupation Tax Act by the
2 Department of Revenue: Provided that this requirement does
3 not apply to a dealer who is already licensed hereunder
4 with the Secretary of State, and who is merely applying for
5 a renewal of his license. As evidence of this fact, the
6 application shall be accompanied by a certification from
7 the Department of Revenue showing that that Department has
8 approved the applicant for registration under the
9 Retailers' Occupation Tax Act.

10 6. A statement that the applicant has complied with the
11 appropriate liability insurance requirement. A Certificate
12 of Insurance in a solvent company authorized to do business
13 in the State of Illinois shall be included with each
14 application covering each location at which he proposes to
15 act as a new vehicle dealer. The policy must provide
16 liability coverage in the minimum amounts of \$100,000 for
17 bodily injury to, or death of, any person, \$300,000 for
18 bodily injury to, or death of, two or more persons in any
19 one accident, and \$50,000 for damage to property. Such
20 policy shall expire not sooner than December 31 of the year
21 for which the license was issued or renewed. The expiration
22 of the insurance policy shall not terminate the liability
23 under the policy arising during the period for which the
24 policy was filed. Trailer and mobile home dealers are
25 exempt from this requirement.

26 If the permitted user has a liability insurance policy

1 that provides automobile liability insurance coverage of
2 at least \$100,000 for bodily injury to or the death of any
3 person, \$300,000 for bodily injury to or the death of any 2
4 or more persons in any one accident, and \$50,000 for damage
5 to property, then the permitted user's insurer shall be the
6 primary insurer and the dealer's insurer shall be the
7 secondary insurer. If the permitted user does not have a
8 liability insurance policy that provides automobile
9 liability insurance coverage of at least \$100,000 for
10 bodily injury to or the death of any person, \$300,000 for
11 bodily injury to or the death of any 2 or more persons in
12 any one accident, and \$50,000 for damage to property, or
13 does not have any insurance at all, then the dealer's
14 insurer shall be the primary insurer and the permitted
15 user's insurer shall be the secondary insurer.

16 When a permitted user is "test driving" a new vehicle
17 dealer's automobile, the new vehicle dealer's insurance
18 shall be primary and the permitted user's insurance shall
19 be secondary.

20 As used in this paragraph 6, a "permitted user" is a
21 person who, with the permission of the new vehicle dealer
22 or an employee of the new vehicle dealer, drives a vehicle
23 owned and held for sale or lease by the new vehicle dealer
24 which the person is considering to purchase or lease, in
25 order to evaluate the performance, reliability, or
26 condition of the vehicle. The term "permitted user" also

1 includes a person who, with the permission of the new
2 vehicle dealer, drives a vehicle owned or held for sale or
3 lease by the new vehicle dealer for loaner purposes while
4 the user's vehicle is being repaired or evaluated.

5 As used in this paragraph 6, "test driving" occurs when
6 a permitted user who, with the permission of the new
7 vehicle dealer or an employee of the new vehicle dealer,
8 drives a vehicle owned and held for sale or lease by a new
9 vehicle dealer that the person is considering to purchase
10 or lease, in order to evaluate the performance,
11 reliability, or condition of the vehicle.

12 As used in this paragraph 6, "loaner purposes" means
13 when a person who, with the permission of the new vehicle
14 dealer, drives a vehicle owned or held for sale or lease by
15 the new vehicle dealer while the user's vehicle is being
16 repaired or evaluated.

17 7. (A) An application for a new motor vehicle dealer's
18 license shall be accompanied by the following license fees:

19 (i) \$1,000 for applicant's established place of
20 business, and \$100 for each additional place of
21 business, if any, to which the application pertains;
22 but if the application is made after June 15 of any
23 year, the license fee shall be \$500 for applicant's
24 established place of business plus \$50 for each
25 additional place of business, if any, to which the
26 application pertains. License fees shall be returnable

1 only in the event that the application is denied by the
2 Secretary of State. All moneys received by the
3 Secretary of State as license fees under this
4 subparagraph (i) paragraph (7) (A) of subsection (b) of
5 ~~this Section~~ prior to applications for the 2004
6 licensing year shall be deposited into the Motor
7 Vehicle Review Board Fund and shall be used to
8 administer the Motor Vehicle Review Board under the
9 Motor Vehicle Franchise Act. Of the money received by
10 the Secretary of State as license fees under this
11 subparagraph (i) paragraph (7) (A) of subsection (b) of
12 ~~this Section~~ for the 2004 licensing year and
13 thereafter, 10% shall be deposited into the Motor
14 Vehicle Review Board Fund and shall be used to
15 administer the Motor Vehicle Review Board under the
16 Motor Vehicle Franchise Act and 90% shall be deposited
17 into the General Revenue Fund.

18 (ii) Except as provided in subsection (h) of
19 Section 5-102.7 of this Code, an Annual Dealer Recovery
20 Fund Fee in the amount of \$500 for the applicant's
21 established place of business, and \$50 for each
22 additional place of business, if any, to which the
23 application pertains; but if the application is made
24 after June 15 of any year, the fee shall be \$250 for
25 the applicant's established place of business plus \$25
26 for each additional place of business, if any, to which

1 the application pertains. License fees shall be
2 returnable only in the event that the application is
3 denied by the Secretary of State. Moneys received under
4 this subparagraph (ii) shall be deposited into the
5 Dealer Recovery Trust Fund.

6 (B) An application for a new vehicle dealer's license,
7 other than for a new motor vehicle dealer's license, shall
8 be accompanied by the following license fees:

9 (i) \$1,000 for applicant's established place of
10 business, and \$50 for each additional place of
11 business, if any, to which the application pertains;
12 but if the application is made after June 15 of any
13 year, the license fee shall be \$500 for applicant's
14 established place of business plus \$25 for each
15 additional place of business, if any, to which the
16 application pertains. License fees shall be returnable
17 only in the event that the application is denied by the
18 Secretary of State. Of the money received by the
19 Secretary of State as license fees under this
20 subparagraph (i) ~~subsection~~ for the 2004 licensing
21 year and thereafter, 95% shall be deposited into the
22 General Revenue Fund.

23 (ii) Except as provided in subsection (h) of
24 Section 5-102.7 of this Code, an Annual Dealer Recovery
25 Fund Fee in the amount of \$500 for the applicant's
26 established place of business, and \$50 for each

1 additional place of business, if any, to which the
2 application pertains; but if the application is made
3 after June 15 of any year, the fee shall be \$250 for
4 the applicant's established place of business plus \$25
5 for each additional place of business, if any, to which
6 the application pertains. License fees shall be
7 returnable only in the event that the application is
8 denied by the Secretary of State. Moneys received under
9 this subparagraph (ii) shall be deposited into the
10 Dealer Recovery Trust Fund.

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

19 (A) The Anti Theft Laws of the Illinois Vehicle
20 Code;

21 (B) The Certificate of Title Laws of the Illinois
22 Vehicle Code;

23 (C) The Offenses against Registration and
24 Certificates of Title Laws of the Illinois Vehicle
25 Code;

26 (D) The Dealers, Transporters, Wreckers and

1 Rebuilders Laws of the Illinois Vehicle Code;

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

4 (F) The Retailers' Occupation Tax Act.

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

13 (A) The Consumer Finance Act;

14 (B) The Consumer Installment Loan Act;

15 (C) The Retail Installment Sales Act;

16 (D) The Motor Vehicle Retail Installment Sales
17 Act;

18 (E) The Interest Act;

19 (F) The Illinois Wage Assignment Act;

20 (G) Part 8 of Article XII of the Code of Civil
21 Procedure; or

22 (H) The Consumer Fraud Act.

23 10. A bond or certificate of deposit in the amount of
24 \$20,000 for each location at which the applicant intends to
25 act as a new vehicle dealer. The bond shall be for the term
26 of the license, or its renewal, for which application is

1 made, and shall expire not sooner than December 31 of the
2 year for which the license was issued or renewed. The bond
3 shall run to the People of the State of Illinois, with
4 surety by a bonding or insurance company authorized to do
5 business in this State. It shall be conditioned upon the
6 proper transmittal of all title and registration fees and
7 taxes (excluding taxes under the Retailers' Occupation Tax
8 Act) accepted by the applicant as a new vehicle dealer.

9 11. Such other information concerning the business of
10 the applicant as the Secretary of State may by rule or
11 regulation prescribe.

12 12. A statement that the applicant understands Chapter
13 One through Chapter Five of this Code.

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

20 (d) Anything in this Chapter 5 to the contrary
21 notwithstanding no person shall be licensed as a new vehicle
22 dealer unless:

23 1. He is authorized by contract in writing between
24 himself and the manufacturer or franchised distributor of
25 such make of vehicle to so sell the same in this State, and

26 2. Such person shall maintain an established place of

1 business as defined in this Act.

2 (e) The Secretary of State shall, within a reasonable time
3 after receipt, examine an application submitted to him under
4 this Section and unless he makes a determination that the
5 application submitted to him does not conform with the
6 requirements of this Section or that grounds exist for a denial
7 of the application, under Section 5-501 of this Chapter, grant
8 the applicant an original new vehicle dealer's license in
9 writing for his established place of business and a
10 supplemental license in writing for each additional place of
11 business in such form as he may prescribe by rule or regulation
12 which shall include the following:

13 1. The name of the person licensed;

14 2. If a corporation, the name and address of its
15 officers or if a sole proprietorship, a partnership, an
16 unincorporated association or any similar form of business
17 organization, the name and address of the proprietor or of
18 each partner, member, officer, director, trustee or
19 manager;

20 3. In the case of an original license, the established
21 place of business of the licensee;

22 4. In the case of a supplemental license, the
23 established place of business of the licensee and the
24 additional place of business to which such supplemental
25 license pertains;

26 5. The make or makes of new vehicles which the licensee

1 is licensed to sell.

2 (f) The appropriate instrument evidencing the license or a
3 certified copy thereof, provided by the Secretary of State,
4 shall be kept posted conspicuously in the established place of
5 business of the licensee and in each additional place of
6 business, if any, maintained by such licensee.

7 (g) Except as provided in subsection (h) hereof, all new
8 vehicle dealer's licenses granted under this Section shall
9 expire by operation of law on December 31 of the calendar year
10 for which they are granted unless sooner revoked or cancelled
11 under the provisions of Section 5-501 of this Chapter.

12 (h) A new vehicle dealer's license may be renewed upon
13 application and payment of the fee required herein, and
14 submission of proof of coverage under an approved bond under
15 the "Retailers' Occupation Tax Act" or proof that applicant is
16 not subject to such bonding requirements, as in the case of an
17 original license, but in case an application for the renewal of
18 an effective license is made during the month of December, the
19 effective license shall remain in force until the application
20 is granted or denied by the Secretary of State.

21 (i) All persons licensed as a new vehicle dealer are
22 required to furnish each purchaser of a motor vehicle:

23 1. In the case of a new vehicle a manufacturer's
24 statement of origin and in the case of a used motor vehicle
25 a certificate of title, in either case properly assigned to
26 the purchaser;

1 2. A statement verified under oath that all identifying
2 numbers on the vehicle agree with those on the certificate
3 of title or manufacturer's statement of origin;

4 3. A bill of sale properly executed on behalf of such
5 person;

6 4. A copy of the Uniform Invoice-transaction reporting
7 return referred to in Section 5-402 hereof;

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

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

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

19 A new vehicle dealer who violates this subsection (j) is
20 guilty of a petty offense. Violation of this subsection (j) is
21 not cause to suspend, revoke, cancel, or deny renewal of the
22 new vehicle dealer's license.

23 This amendatory Act of 1983 shall be applicable to the 1984
24 registration year and thereafter.

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

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

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

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

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

18 1. The name and type of business organization
19 established and additional places of business, if any, in
20 this State.

21 2. If the applicant is a corporation, a list of its
22 officers, directors, and shareholders having a ten percent
23 or greater ownership interest in the corporation, setting
24 forth the residence address of each; if the applicant is a
25 sole proprietorship, a partnership, an unincorporated

1 association, a trust, or any similar form of business
2 organization, the names and residence address of the
3 proprietor or of each partner, member, officer, director,
4 trustee or manager.

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

15 4. A statement that the applicant has complied with the
16 appropriate liability insurance requirement. A Certificate
17 of Insurance in a solvent company authorized to do business
18 in the State of Illinois shall be included with each
19 application covering each location at which he proposes to
20 act as a used vehicle dealer. The policy must provide
21 liability coverage in the minimum amounts of \$100,000 for
22 bodily injury to, or death of, any person, \$300,000 for
23 bodily injury to, or death of, two or more persons in any
24 one accident, and \$50,000 for damage to property. Such
25 policy shall expire not sooner than December 31 of the year
26 for which the license was issued or renewed. The expiration

1 of the insurance policy shall not terminate the liability
2 under the policy arising during the period for which the
3 policy was filed. Trailer and mobile home dealers are
4 exempt from this requirement.

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

21 When a permitted user is "test driving" a used vehicle
22 dealer's automobile, the used vehicle dealer's insurance
23 shall be primary and the permitted user's insurance shall
24 be secondary.

25 As used in this paragraph 4, a "permitted user" is a
26 person who, with the permission of the used vehicle dealer

1 or an employee of the used vehicle dealer, drives a vehicle
2 owned and held for sale or lease by the used vehicle dealer
3 which the person is considering to purchase or lease, in
4 order to evaluate the performance, reliability, or
5 condition of the vehicle. The term "permitted user" also
6 includes a person who, with the permission of the used
7 vehicle dealer, drives a vehicle owned or held for sale or
8 lease by the used vehicle dealer for loaner purposes while
9 the user's vehicle is being repaired or evaluated.

10 As used in this paragraph 4, "test driving" occurs when
11 a permitted user who, with the permission of the used
12 vehicle dealer or an employee of the used vehicle dealer,
13 drives a vehicle owned and held for sale or lease by a used
14 vehicle dealer that the person is considering to purchase
15 or lease, in order to evaluate the performance,
16 reliability, or condition of the vehicle.

17 As used in this paragraph 4, "loaner purposes" means
18 when a person who, with the permission of the used vehicle
19 dealer, drives a vehicle owned or held for sale or lease by
20 the used vehicle dealer while the user's vehicle is being
21 repaired or evaluated.

22 5. An application for a used vehicle dealer's license
23 shall be accompanied by the following license fees:

24 (A) \$1,000 for applicant's established place of
25 business, and \$50 for each additional place of
26 business, if any, to which the application pertains;

1 however, if the application is made after June 15 of
2 any year, the license fee shall be \$500 for applicant's
3 established place of business plus \$25 for each
4 additional place of business, if any, to which the
5 application pertains. License fees shall be returnable
6 only in the event that the application is denied by the
7 Secretary of State. Of the money received by the
8 Secretary of State as license fees under this
9 subparagraph (A) Section for the 2004 licensing year
10 and thereafter, 95% shall be deposited into the General
11 Revenue Fund.

12 (B) Except as provided in subsection (h) of Section
13 5-102.7 of this Code, an Annual Dealer Recovery Fund
14 Fee in the amount of \$500 for the applicant's
15 established place of business, and \$50 for each
16 additional place of business, if any, to which the
17 application pertains; but if the application is made
18 after June 15 of any year, the fee shall be \$250 for
19 the applicant's established place of business plus \$25
20 for each additional place of business, if any, to which
21 the application pertains. License fees shall be
22 returnable only in the event that the application is
23 denied by the Secretary of State. Moneys received under
24 this subparagraph (B) shall be deposited into the
25 Dealer Recovery Trust Fund.

26 6. A statement that the applicant's officers,

1 directors, shareholders having a 10% or greater ownership
2 interest therein, proprietor, partner, member, officer,
3 director, trustee, manager or other principals in the
4 business have not committed in the past 3 years any one
5 violation as determined in any civil, criminal or
6 administrative proceedings of any one of the following
7 Acts:

8 (A) The Anti Theft Laws of the Illinois Vehicle
9 Code;

10 (B) The Certificate of Title Laws of the Illinois
11 Vehicle Code;

12 (C) The Offenses against Registration and
13 Certificates of Title Laws of the Illinois Vehicle
14 Code;

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

17 (E) Section 21-2 of the Illinois Criminal Code of
18 1961, Criminal Trespass to Vehicles; or

19 (F) The Retailers' Occupation Tax Act.

20 7. A statement that the applicant's officers,
21 directors, shareholders having a 10% or greater ownership
22 interest therein, proprietor, partner, member, officer,
23 director, trustee, manager or other principals in the
24 business have not committed in any calendar year 3 or more
25 violations, as determined in any civil or criminal or
26 administrative proceedings, of any one or more of the

1 following Acts:

2 (A) The Consumer Finance Act;

3 (B) The Consumer Installment Loan Act;

4 (C) The Retail Installment Sales Act;

5 (D) The Motor Vehicle Retail Installment Sales
6 Act;

7 (E) The Interest Act;

8 (F) The Illinois Wage Assignment Act;

9 (G) Part 8 of Article XII of the Code of Civil
10 Procedure; or

11 (H) The Consumer Fraud Act.

12 8. A bond or Certificate of Deposit in the amount of
13 \$20,000 for each location at which the applicant intends to
14 act as a used vehicle dealer. The bond shall be for the
15 term of the license, or its renewal, for which application
16 is made, and shall expire not sooner than December 31 of
17 the year for which the license was issued or renewed. The
18 bond shall run to the People of the State of Illinois, with
19 surety by a bonding or insurance company authorized to do
20 business in this State. It shall be conditioned upon the
21 proper transmittal of all title and registration fees and
22 taxes (excluding taxes under the Retailers' Occupation Tax
23 Act) accepted by the applicant as a used vehicle dealer.

24 9. Such other information concerning the business of
25 the applicant as the Secretary of State may by rule or
26 regulation prescribe.

1 10. A statement that the applicant understands Chapter
2 1 through Chapter 5 of this Code.

3 11. A copy of the certification from the prelicensing
4 education program.

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

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

15 (e) The Secretary of State shall, within a reasonable time
16 after receipt, examine an application submitted to him under
17 this Section. Unless the Secretary makes a determination that
18 the application submitted to him does not conform to this
19 Section or that grounds exist for a denial of the application
20 under Section 5-501 of this Chapter, he must grant the
21 applicant an original used vehicle dealer's license in writing
22 for his established place of business and a supplemental
23 license in writing for each additional place of business in
24 such form as he may prescribe by rule or regulation which shall
25 include the following:

26 1. The name of the person licensed;

1 2. If a corporation, the name and address of its
2 officers or if a sole proprietorship, a partnership, an
3 unincorporated association or any similar form of business
4 organization, the name and address of the proprietor or of
5 each partner, member, officer, director, trustee or
6 manager;

7 3. In case of an original license, the established
8 place of business of the licensee;

9 4. In the case of a supplemental license, the
10 established place of business of the licensee and the
11 additional place of business to which such supplemental
12 license pertains.

13 (f) The appropriate instrument evidencing the license or a
14 certified copy thereof, provided by the Secretary of State
15 shall be kept posted, conspicuously, in the established place
16 of business of the licensee and in each additional place of
17 business, if any, maintained by such licensee.

18 (g) Except as provided in subsection (h) of this Section,
19 all used vehicle dealer's licenses granted under this Section
20 expire by operation of law on December 31 of the calendar year
21 for which they are granted unless sooner revoked or cancelled
22 under Section 5-501 of this Chapter.

23 (h) A used vehicle dealer's license may be renewed upon
24 application and payment of the fee required herein, and
25 submission of proof of coverage by an approved bond under the
26 "Retailers' Occupation Tax Act" or proof that applicant is not

1 subject to such bonding requirements, as in the case of an
2 original license, but in case an application for the renewal of
3 an effective license is made during the month of December, the
4 effective license shall remain in force until the application
5 for renewal is granted or denied by the Secretary of State.

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

8 1. A certificate of title properly assigned to the
9 purchaser;

10 2. A statement verified under oath that all identifying
11 numbers on the vehicle agree with those on the certificate
12 of title;

13 3. A bill of sale properly executed on behalf of such
14 person;

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

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

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

21 (j) A real estate broker holding a valid certificate of
22 registration issued pursuant to "The Real Estate Brokers and
23 Salesmen License Act" may engage in the business of selling or
24 dealing in house trailers not his own without being licensed as
25 a used vehicle dealer under this Section; however such broker
26 shall maintain a record of the transaction including the

1 following:

- 2 (1) the name and address of the buyer and seller,
3 (2) the date of sale,
4 (3) a description of the mobile home, including the
5 vehicle identification number, make, model, and year, and
6 (4) the Illinois certificate of title number.

7 The foregoing records shall be available for inspection by
8 any officer of the Secretary of State's Office at any
9 reasonable hour.

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

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

21 (l) Used vehicle dealers licensed under this Section shall
22 provide the Secretary of State a register for the sale at
23 auction of each salvage or junk certificate vehicle. Each
24 register shall include the following information:

- 25 1. The year, make, model, style and color of the
26 vehicle;

1 2. The vehicle's manufacturer's identification number
2 or, if applicable, the Secretary of State or Illinois
3 Department of State Police identification number;

4 3. The date of acquisition of the vehicle;

5 4. The name and address of the person from whom the
6 vehicle was acquired;

7 5. The name and address of the person to whom any
8 vehicle was disposed, the person's Illinois license number
9 or if the person is an out-of-state salvage vehicle buyer,
10 the license number from the state or jurisdiction where the
11 buyer is licensed; and

12 6. The purchase price of the vehicle.

13 The register shall be submitted to the Secretary of State
14 via written or electronic means within 10 calendar days from
15 the date of the auction.

16 (Source: P.A. 95-783, eff. 1-1-09; 96-678, eff. 8-25-09.)

17 (625 ILCS 5/5-102.7 new)

18 Sec. 5-102.7. Dealer Recovery Trust Fund.

19 (a) The General Assembly finds that motor vehicle dealers
20 that go out of business without fulfilling agreements to pay
21 off the balance of their customers' liens on traded-in vehicles
22 cause financial harm to those customers by leaving those
23 customers liable for multiple vehicle loans and cause harm to
24 the integrity of the motor vehicle retailing industry. It is
25 the intent of the General Assembly to protect vehicle

1 purchasers by creating a Dealer Recovery Trust Fund to
2 reimburse these consumers.

3 (b) The Dealer Recovery Trust Fund shall be used solely for
4 the limited purpose of helping victims of dealership closings.
5 Any interest accrued by moneys in the Fund shall be deposited
6 and become part of the Dealer Recovery Trust Fund and its
7 purpose. The sole beneficiaries of the Dealer Recovery Trust
8 Fund are victims of dealership closings.

9 (c) Except where the context otherwise requires, the
10 following words and phrases, when used in this Section, have
11 the meanings ascribed to them in this subsection (c):

12 "Applicant" means a person who applies for reimbursement
13 from the Dealer Recovery Trust Fund Board.

14 "Board" means the Dealer Recovery Trust Fund Board created
15 under this Section.

16 "Dealer" means a new vehicle dealer licensed under Section
17 5-101 or a used vehicle dealer licensed under Section 5-102,
18 excepting a dealer who primarily sells mobile homes,
19 recreational vehicles, or trailers or any dealer who sells 25
20 vehicles or fewer per calendar year.

21 "Fund" means the Dealer Recovery Trust Fund created under
22 this Section.

23 "Fund Administrator" means the private entity, which shall
24 be appointed by the Board, that administers the Dealer Recovery
25 Trust Fund.

26 (d) Beginning October 1, 2011, each application or renewal

1 for a new vehicle dealer's license and each application or
2 renewal for a used vehicle dealer's license shall be
3 accompanied by the applicable Annual Dealer Recovery Fund Fee
4 under Section 5-101 or 5-102 of this Code. The fee shall be in
5 addition to any other fees imposed under this Article, shall be
6 submitted at the same time an application or renewal for a new
7 vehicle dealer's license or used vehicle dealer's license is
8 submitted, and shall be made payable to and remitted directly
9 to the Dealer Recovery Trust Fund, a trust fund outside of the
10 State Treasury which is hereby created. In addition, the Dealer
11 Recovery Trust Fund may accept any federal, State, or private
12 moneys for deposit into the Fund.

13 (e) The Fund Administrator shall maintain a list of all
14 dealers who have paid the fee under subsection (d) of this
15 Section for the current year, which shall be available to the
16 Secretary of State and the Board. The Secretary of State shall
17 revoke the dealer license of any dealer who does not pay the
18 fee imposed under subsection (d) of this Section. The Secretary
19 of State and the Fund Administrator may enter into information
20 sharing agreements as needed to implement this Section.

21 (f) The Fund shall be audited annually by an independent
22 auditor who is a certified public accountant and who has been
23 selected by the Board. The independent auditor shall compile an
24 annual report, which shall be filed with the Board and shall be
25 a public record. The auditor shall be paid by the Fund,
26 pursuant to an order of the Board.

1 (g) The Fund shall be maintained by the Fund Administrator,
2 who shall keep current records of the amounts deposited into
3 the Fund and the amounts paid out of the Fund pursuant to an
4 order of the Board. These records shall be made available to
5 all members of the Board upon reasonable request during normal
6 business hours. The Fund Administrator shall report the balance
7 in the Fund to the Board monthly, by the 15th day of each
8 month. For purposes of determining the amount available to pay
9 claims under this Section at any meeting of the Board, the
10 Board shall use the Fund Administrator's most recent monthly
11 report. The Fund Administrator shall purchase liability
12 insurance to cover management of the Fund at a cost not to
13 exceed 2% of the balance in the Fund as of January 15th of that
14 year.

15 (h) In any year for which the balance in the Fund as of
16 August 31st is greater than \$3,500,000, the Fund Administrator
17 shall notify the Secretary of State and the Secretary of State
18 shall suspend collection of the fee for the following year for
19 any dealer who has not had a claim paid from the Fund, has not
20 had his or her license suspended or revoked, and has not been
21 assessed any civil penalties under this Code during the 3
22 previous years.

23 (i) Moneys in the Dealer Recovery Trust Fund may be paid
24 from the Fund only as directed by a written order of the Board
25 and used only for the following purposes:

26 (i) to pay claims under a written order of the Board as

1 provided in this Section; or

2 (ii) to reimburse the Fund Administrator for its
3 expenses related to the administration of the Fund,
4 provided that the reimbursement to the Fund Administrator
5 in any year shall not exceed 2% of the balance in the Fund
6 as of January 15th of that year.

7 (j) The Dealer Recovery Trust Fund Board is hereby created.
8 The Board shall consist of the Secretary of State, or his or
9 her designee, who shall serve as chair, the Attorney General,
10 or his or her designee, who shall serve as secretary, and one
11 person alternatively representing new and independent Illinois
12 automobile dealers, selected collectively by the Attorney
13 General, or his or her designee, and the Secretary of State, or
14 his or her designee. The Secretary of State may propose
15 procedures and employ personnel as necessary to implement this
16 Section. The Board shall meet quarterly, and as needed, as
17 directed by the chair. The Board may not pay out any claims
18 before the balance deposited into the Fund exceeds \$500,000.
19 Board meetings shall be open to the public. The Board has the
20 authority to take any action by at least a two-thirds majority
21 vote.

22 (k) The following persons may apply to the Board for
23 reimbursement from the Dealer Recovery Trust Fund:

24 (i) A retail customer who, on or after October 1, 2011,
25 purchases a vehicle from a dealer who subsequently files
26 for bankruptcy or whose vehicle dealer's license is

1 subsequently revoked by the Secretary of State or otherwise
2 terminated and, as part of the purchase transaction, trades
3 in a vehicle with an outstanding lien to the dealer if lien
4 satisfaction was a condition of the purchase agreement and
5 the retail customer determines that the lien has not been
6 satisfied;

7 (ii) A retail customer who, on or after October 1,
8 2011, purchases a vehicle with an undisclosed lien from a
9 dealer who subsequently files for bankruptcy or whose
10 vehicle dealer's license is subsequently revoked by the
11 Secretary of State or otherwise terminated;

12 (iii) A dealer who, on or after October 1, 2011,
13 purchases a vehicle with an undisclosed lien from another
14 dealer who subsequently files for bankruptcy or whose
15 vehicle dealer's license is subsequently revoked by the
16 Secretary of State or otherwise terminated.

17 (l) To be considered by the Board, an applicant must submit
18 his or her claim to the Board within 9 months after the date of
19 the transaction that gave rise to the claim.

20 (m) At each meeting of the Board, it shall consider all
21 claims that are properly submitted to it on forms prescribed by
22 the Secretary of State at least 30 days before the date of the
23 Board's meeting. Before the Board may consider a claim against
24 a dealer, it must make a written determination that the dealer
25 has filed for bankruptcy under the provisions of 11 U.S.C.
26 Chapter 7; that the Secretary of State has revoked his or her

1 dealer's license; or that the license has been otherwise
2 terminated. Once the Board has made this determination, it may
3 consider the applicant's claim against the dealer. If a
4 two-thirds majority of the Board determines that the dealer has
5 committed a violation under subsection (k), it shall grant the
6 applicant's claim. Except as otherwise provided in this
7 Section, the maximum amount of any award for a claim under
8 paragraph (i) of subsection (k) of this Section shall be equal
9 to the amount of the unpaid balance of the lien that the dealer
10 agreed to pay off on behalf of the applicant as shown on the
11 bill of sale or the retail installment sales contract. The
12 maximum amount of any claim under paragraph (ii) or (iii) of
13 subsection (k) of this Section shall be equal to the amount of
14 the undisclosed lien. However, no award for a claim under
15 subsection (k) of this Section shall exceed \$35,000.

16 (n) If the balance in the Fund at the time of any Board
17 meeting is less than the amount of the total amount of all
18 claims awarded at that meeting, then all awards made at that
19 meeting shall be reduced, pro rata, so that the amount of
20 claims does not exceed the balance in the Fund. Before it
21 reviews new claims, the Board shall issue written orders to pay
22 the remaining portion of any claims that were so reduced,
23 provided that the balance in the Fund is sufficient to pay
24 those claims.

25 (o) Whenever the balance of the Fund falls below \$500,000,
26 the Board may charge dealers an additional assessment of up to

1 \$50 to bring the balance to at least \$500,000. Not more than
2 one additional assessment may be made against a dealer in any
3 12-month period.

4 (p) If the total amount of claims awarded against any
5 dealer exceeds 33% of the balance in the Fund, the Board may
6 permanently reduce the amount of those claims, pro rata, so
7 that those claims do not exceed 33% of the balance in the Fund.

8 (q) The Board shall issue a written order directing the
9 Fund Administrator to pay an applicant's claim to a secured
10 party where the Board has received a signed agreement between
11 the applicant and the secured party holding the lien. The
12 agreement must (i) state that the applicant and the secured
13 party agree to accept payment from the Fund to the secured
14 party as settlement in full of all claims against the dealer;
15 and (ii) release the lien and the title, if applicable, to the
16 vehicle that was the subject of the claim. The written order
17 shall state the amount of the claim and the name and address of
18 the secured party to whom the claim shall be paid. The Fund
19 Administrator shall pay the claim within 30 days after it
20 receives the Board's order.

21 (r) No dealer or principal associated with a dealer's
22 license is eligible for licensure, renewal or relicensure until
23 the full amount of reimbursement for an unpaid claim, plus
24 interest as determined by the Board, is paid to the Fund.
25 Nothing in this Section shall limit the authority of the
26 Secretary of State to suspend, revoke, or levy civil penalties

1 against a dealer, nor shall full repayment of the amount owed
2 to the Fund nullify or modify the effect of any action by the
3 Secretary.

4 (s) Nothing in this Section shall limit the right of any
5 person to seek relief through civil action against any other
6 person as an alternative to seeking reimbursement from the
7 Fund.

8 (625 ILCS 5/5-501) (from Ch. 95 1/2, par. 5-501)

9 Sec. 5-501. Denial, suspension or revocation or
10 cancellation of a license.

11 (a) The license of a person issued under this Chapter may
12 be denied, revoked or suspended if the Secretary of State finds
13 that the applicant, or the officer, director, shareholder
14 having a ten percent or greater ownership interest in the
15 corporation, owner, partner, trustee, manager, employee or the
16 licensee has:

17 1. Violated this Act;

18 2. Made any material misrepresentation to the
19 Secretary of State in connection with an application for a
20 license, junking certificate, salvage certificate, title
21 or registration;

22 3. Committed a fraudulent act in connection with
23 selling, bartering, exchanging, offering for sale or
24 otherwise dealing in vehicles, chassis, essential parts,
25 or vehicle shells;

1 4. As a new vehicle dealer has no contract with a
2 manufacturer or enfranchised distributor to sell that new
3 vehicle in this State;

4 5. Not maintained an established place of business as
5 defined in this Code;

6 6. Failed to file or produce for the Secretary of State
7 any application, report, document or other pertinent
8 books, records, documents, letters, contracts, required to
9 be filed or produced under this Code or any rule or
10 regulation made by the Secretary of State pursuant to this
11 Code;

12 7. Previously had, within 3 years, such a license
13 denied, suspended, revoked, or cancelled under the
14 provisions of subsection (c) (2) of this Section;

15 8. Has committed in any calendar year 3 or more
16 violations, as determined in any civil or criminal
17 proceeding, of any one or more of the following Acts:

18 a. the "Consumer Finance Act";

19 b. the "Consumer Installment Loan Act";

20 c. the "Retail Installment Sales Act";

21 d. the "Motor Vehicle Retail Installment Sales
22 Act";

23 e. "An Act in relation to the rate of interest and
24 other charges in connection with sales on credit and
25 the lending of money", approved May 24, 1879, as
26 amended;

1 f. "An Act to promote the welfare of wage-earners
2 by regulating the assignment of wages, and prescribing
3 a penalty for the violation thereof", approved July 1,
4 1935, as amended;

5 g. Part 8 of Article XII of the Code of Civil
6 Procedure; or

7 h. the "Consumer Fraud Act";

8 9. Failed to pay any fees or taxes due under this Act,
9 or has failed to transmit any fees or taxes received by him
10 for transmittal by him to the Secretary of State or the
11 State of Illinois;

12 10. Converted an abandoned vehicle;

13 11. Used a vehicle identification plate or number
14 assigned to a vehicle other than the one to which
15 originally assigned;

16 12. Violated the provisions of Chapter 5 of this Act,
17 as amended;

18 13. Violated the provisions of Chapter 4 of this Act,
19 as amended;

20 14. Violated the provisions of Chapter 3 of this Act,
21 as amended;

22 15. Violated Section 21-2 of the Criminal Code of 1961,
23 Criminal Trespass to Vehicles;

24 16. Made or concealed a material fact in connection
25 with his application for a license;

26 17. Acted in the capacity of a person licensed or acted

1 as a licensee under this Chapter without having a license
2 therefor;

3 18. Failed to pay, within 90 days after a final
4 judgment, any fines assessed against the licensee pursuant
5 to an action brought under Section 5-404;~~;~~

6 19. Failed to pay the Dealer Recovery Trust Fund fee
7 under Section 5-102.7 of this Code.

8 (b) In addition to other grounds specified in this Chapter,
9 the Secretary of State, on complaint of the Department of
10 Revenue, shall refuse the issuance or renewal of a license, or
11 suspend or revoke such license, for any of the following
12 violations of the "Retailers' Occupation Tax Act":

- 13 1. Failure to make a tax return;
- 14 2. The filing of a fraudulent return;
- 15 3. Failure to pay all or part of any tax or penalty
16 finally determined to be due;
- 17 4. Failure to comply with the bonding requirements of
18 the "Retailers' Occupation Tax Act".

19 (b-1) In addition to other grounds specified in this
20 Chapter, the Secretary of State, on complaint of the Motor
21 Vehicle Review Board, shall refuse the issuance or renewal of a
22 license, or suspend or revoke that license, if costs or fees
23 assessed under Section 29 or Section 30 of the Motor Vehicle
24 Franchise Act have remained unpaid for a period in excess of 90
25 days after the licensee received from the Motor Vehicle Board a
26 second notice and demand for the costs or fees. The Motor

1 Vehicle Review Board must send the licensee written notice and
2 demand for payment of the fees or costs at least 2 times, and
3 the second notice and demand must be sent by certified mail.

4 (c) Cancellation of a license.

5 1. The license of a person issued under this Chapter
6 may be cancelled by the Secretary of State prior to its
7 expiration in any of the following situations:

8 A. When a license is voluntarily surrendered, by
9 the licensed person; or

10 B. If the business enterprise is a sole
11 proprietorship, which is not a franchised dealership,
12 when the sole proprietor dies or is imprisoned for any
13 period of time exceeding 30 days; or

14 C. If the license was issued to the wrong person or
15 corporation, or contains an error on its face. If any
16 person above whose license has been cancelled wishes to
17 apply for another license, whether during the same
18 license year or any other year, that person shall be
19 treated as any other new applicant and the cancellation
20 of the person's prior license shall not, in and of
21 itself, be a bar to the issuance of a new license.

22 2. The license of a person issued under this Chapter
23 may be cancelled without a hearing when the Secretary of
24 State is notified that the applicant, or any officer,
25 director, shareholder having a 10 per cent or greater
26 ownership interest in the corporation, owner, partner,

1 trustee, manager, employee or member of the applicant or
2 the licensee has been convicted of any felony involving the
3 selling, bartering, exchanging, offering for sale, or
4 otherwise dealing in vehicles, chassis, essential parts,
5 vehicle shells, or ownership documents relating to any of
6 the above items.

7 (Source: P.A. 94-287, eff. 1-1-06.)

8 Section 99. Effective date. This Act takes effect October
9 1, 2011.