



Rep. Marlow H. Colvin

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09700HB0880ham001

LRB097 03709 HEP 53080 a

1 AMENDMENT TO HOUSE BILL 880

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 880 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Vehicle Code is amended by  
5 changing Sections 5-101, 5-102, and 5-501 and by adding Section  
6 5-102.7 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.

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

5           1. The name and type of business organization of the  
6 applicant and his established and additional places of  
7 business, if any, in this State.

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

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

19           4. The name of each manufacturer or franchised  
20 distributor, if any, of new vehicles with whom the  
21 applicant has contracted for the sale of such new vehicles.  
22 As evidence of this fact, the application shall be  
23 accompanied by a signed statement from each such  
24 manufacturer or franchised distributor. If the applicant  
25 is in the business of offering for sale new conversion  
26 vehicles, trucks or vans, except for trucks modified to

1       serve a special purpose which includes but is not limited  
2       to the following vehicles: street sweepers, fertilizer  
3       spreaders, emergency vehicles, implements of husbandry or  
4       maintenance type vehicles, he must furnish evidence of a  
5       sales and service agreement from both the chassis  
6       manufacturer and second stage manufacturer.

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

17            6. A statement that the applicant has complied with the  
18      appropriate liability insurance requirement. A Certificate  
19      of Insurance in a solvent company authorized to do business  
20      in the State of Illinois shall be included with each  
21      application covering each location at which he proposes to  
22      act as a new vehicle dealer. The policy must provide  
23      liability coverage in the minimum amounts of \$100,000 for  
24      bodily injury to, or death of, any person, \$300,000 for  
25      bodily injury to, or death of, two or more persons in any  
26      one accident, and \$50,000 for damage to property. Such

1 policy shall expire not sooner than December 31 of the year  
2 for which the license was issued or renewed. The expiration  
3 of the insurance policy shall not terminate the liability  
4 under the policy arising during the period for which the  
5 policy was filed. Trailer and mobile home dealers are  
6 exempt from this requirement.

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

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

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

12          As used in this paragraph 6, "test driving" occurs when  
13          a permitted user who, with the permission of the new  
14          vehicle dealer or an employee of the new vehicle dealer,  
15          drives a vehicle owned and held for sale or lease by a new  
16          vehicle dealer that the person is considering to purchase  
17          or lease, in order to evaluate the performance,  
18          reliability, or condition of the vehicle.

19          As used in this paragraph 6, "loaner purposes" means  
20          when a person who, with the permission of the new vehicle  
21          dealer, drives a vehicle owned or held for sale or lease by  
22          the new vehicle dealer while the user's vehicle is being  
23          repaired or evaluated.

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

26                 (i) \$1,000 for applicant's established place of

1 business, and \$100 for each additional place of  
2 business, if any, to which the application pertains;  
3 but if the application is made after June 15 of any  
4 year, the license fee shall be \$500 for applicant's  
5 established place of business plus \$50 for each  
6 additional place of business, if any, to which the  
7 application pertains. License fees shall be returnable  
8 only in the event that the application is denied by the  
9 Secretary of State. All moneys received by the  
10 Secretary of State as license fees under this  
11 subparagraph (i) ~~paragraph (7) (A) of subsection (b) of~~  
12 ~~this Section~~ prior to applications for the 2004  
13 licensing year 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. Of the money received by  
17 the Secretary of State as license fees under this  
18 subparagraph (i) ~~paragraph (7) (A) of subsection (b) of~~  
19 ~~this Section~~ for the 2004 licensing year and  
20 thereafter, 10% shall be deposited into the Motor  
21 Vehicle Review Board Fund and shall be used to  
22 administer the Motor Vehicle Review Board under the  
23 Motor Vehicle Franchise Act and 90% shall be deposited  
24 into the General Revenue Fund.

25 (ii) Except as provided in subsection (q) of  
26 Section 5-102.7 of this Code, an Annual Dealer Recovery

1       Fund Fee in the amount of \$500 for the applicant's  
2       established place of business, and \$50 for each  
3       additional place of business, if any, to which the  
4       application pertains; but if the application is made  
5       after June 15 of any year, the fee shall be \$250 for  
6       the applicant's established place of business plus \$25  
7       for each additional place of business, if any, to which  
8       the application pertains. License fees shall be  
9       returnable only in the event that the application is  
10       denied by the Secretary of State. Moneys received under  
11       this subparagraph (ii) shall be deposited into the  
12       Dealer Recovery Trust Fund.

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

16               (i) \$1,000 for applicant's established place of  
17       business, and \$50 for each additional place of  
18       business, if any, to which the application pertains;  
19       but if the application is made after June 15 of any  
20       year, the license fee shall be \$500 for applicant's  
21       established place of business plus \$25 for each  
22       additional place of business, if any, to which the  
23       application pertains. License fees shall be returnable  
24       only in the event that the application is denied by the  
25       Secretary of State. Of the money received by the  
26       Secretary of State as license fees under this

1            subparagraph (i) ~~subsection~~ for the 2004 licensing  
2            year and thereafter, 95% shall be deposited into the  
3            General Revenue Fund.

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

18           8. A statement that the applicant's officers,  
19           directors, shareholders having a 10% or greater ownership  
20           interest therein, proprietor, a partner, member, officer,  
21           director, trustee, manager or other principals in the  
22           business have not committed in the past 3 years any one  
23           violation as determined in any civil, criminal or  
24           administrative proceedings of any one of the following  
25           Acts:

26           (A) The Anti Theft Laws of the Illinois Vehicle



1 Code;

2 (B) The Certificate of Title Laws of the Illinois  
3 Vehicle Code;

4 (C) The Offenses against Registration and  
5 Certificates of Title Laws of the Illinois Vehicle  
6 Code;

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

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

11 (F) The Retailers' Occupation Tax Act.

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

20 (A) The Consumer Finance Act;

21 (B) The Consumer Installment Loan Act;

22 (C) The Retail Installment Sales Act;

23 (D) The Motor Vehicle Retail Installment Sales  
24 Act;

25 (E) The Interest Act;

26 (F) The Illinois Wage Assignment Act;

1           (G) Part 8 of Article XII of the Code of Civil  
2           Procedure; or

3           (H) The Consumer Fraud Act.

4           10. A bond or certificate of deposit in the amount of  
5           \$20,000 for each location at which the applicant intends to  
6           act as a new vehicle dealer. The bond shall be for the term  
7           of the license, or its renewal, for which application is  
8           made, and shall expire not sooner than December 31 of the  
9           year for which the license was issued or renewed. The bond  
10          shall run to the People of the State of Illinois, with  
11          surety by a bonding or insurance company authorized to do  
12          business in this State. It shall be conditioned upon the  
13          proper transmittal of all title and registration fees and  
14          taxes (excluding taxes under the Retailers' Occupation Tax  
15          Act) accepted by the applicant as a new vehicle dealer.

16          11. Such other information concerning the business of  
17          the applicant as the Secretary of State may by rule or  
18          regulation prescribe.

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

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

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

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

7 2. Such person shall maintain an established place of  
8 business as defined in this Act.

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

20 1. The name of the person licensed;

21 2. If a corporation, the name and address of its  
22 officers or if a sole proprietorship, a partnership, an  
23 unincorporated association or any similar form of business  
24 organization, the name and address of the proprietor or of  
25 each partner, member, officer, director, trustee or  
26 manager;

1           3. In the case of an original license, the established  
2 place of business of the licensee;

3           4. In the case of a supplemental license, the  
4 established place of business of the licensee and the  
5 additional place of business to which such supplemental  
6 license pertains;

7           5. The make or makes of new vehicles which the licensee  
8 is licensed to sell.

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

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

19           (h) A new vehicle dealer's license may be renewed upon  
20 application and payment of the fee required herein, and  
21 submission of proof of coverage under an approved bond under  
22 the "Retailers' Occupation Tax Act" or proof that applicant is  
23 not subject to such bonding requirements, as in the case of an  
24 original license, but in case an application for the renewal of  
25 an effective license is made during the month of December, the  
26 effective license shall remain in force until the application

1 is granted or denied by the Secretary of State.

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

4 1. In the case of a new vehicle a manufacturer's  
5 statement of origin and in the case of a used motor vehicle  
6 a certificate of title, in either case properly assigned to  
7 the purchaser;

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

11 3. A bill of sale properly executed on behalf of such  
12 person;

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

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

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

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

26 A new vehicle dealer who violates this subsection (j) is

1 guilty of a petty offense. Violation of this subsection (j) is  
2 not cause to suspend, revoke, cancel, or deny renewal of the  
3 new vehicle dealer's license.

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

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

8 (625 ILCS 5/5-102) (from Ch. 95 1/2, par. 5-102)

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

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

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

25 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 be accompanied by the following license fees:

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

19 (B) Except as provided in subsection (g) of Section  
20 5-102.7 of this Code, an Annual Dealer Recovery Fund  
21 Fee in the amount of \$500 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; but if the application is made  
25 after June 15 of any year, the fee shall be \$250 for  
26 the applicant's established place of business plus \$25

1           for each additional place of business, if any, to which  
2           the application pertains. License fees shall be  
3           returnable only in the event that the application is  
4           denied by the Secretary of State. Moneys received under  
5           this subparagraph (B) shall be deposited into the  
6           Dealer Recovery Trust Fund.

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

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

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

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

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

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

26                 (F) The Retailers' Occupation Tax Act.

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

9           (A) The Consumer Finance Act;

10           (B) The Consumer Installment Loan Act;

11           (C) The Retail Installment Sales Act;

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

14           (E) The Interest Act;

15           (F) The Illinois Wage Assignment Act;

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

18           (H) The Consumer Fraud Act.

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

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

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

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

10 11. A copy of the certification from the prelicensing  
11 education program.

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

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

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

1 under Section 5-501 of this Chapter, he must grant the  
2 applicant an original used vehicle dealer's license in writing  
3 for his established place of business and a supplemental  
4 license in writing for each additional place of business in  
5 such form as he may prescribe by rule or regulation which shall  
6 include the following:

7 1. The name of the person licensed;

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

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

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

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

25 (g) Except as provided in subsection (h) of this Section,  
26 all used vehicle dealer's licenses granted under this Section

1 expire by operation of law on December 31 of the calendar year  
2 for which they are granted unless sooner revoked or cancelled  
3 under Section 5-501 of this Chapter.

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

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

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

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

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

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

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

26 6. In the case of a vehicle for which the warranty has

1           been reinstated, a copy of the warranty.

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

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

10                   (2) the date of sale,

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

13                   (4) the Illinois certificate of title number.

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

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

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



1 used vehicle dealer's license.

2 (1) Used vehicle dealers licensed under this Section shall  
3 provide the Secretary of State a register for the sale at  
4 auction of each salvage or junk certificate vehicle. Each  
5 register shall include the following information:

6 1. The year, make, model, style and color of the  
7 vehicle;

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

11 3. The date of acquisition of the vehicle;

12 4. The name and address of the person from whom the  
13 vehicle was acquired;

14 5. The name and address of the person to whom any  
15 vehicle was disposed, the person's Illinois license number  
16 or if the person is an out-of-state salvage vehicle buyer,  
17 the license number from the state or jurisdiction where the  
18 buyer is licensed; and

19 6. The purchase price of the vehicle.

20 The register shall be submitted to the Secretary of State  
21 via written or electronic means within 10 calendar days from  
22 the date of the auction.

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

24 (625 ILCS 5/5-102.7 new)

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

1       (a) The General Assembly finds that motor vehicle dealers  
2 that go out of business without fulfilling agreements to pay  
3 off the balance of their customers' liens on traded-in vehicles  
4 cause financial harm to those customers by leaving those  
5 customers liable for multiple vehicle loans and cause harm to  
6 the integrity of the motor vehicle retailing industry. It is  
7 the intent of the General Assembly to protect vehicle  
8 purchasers by creating a Dealer Recovery Trust Fund to  
9 reimburse these consumers.

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

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

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

17       "Dealer" means a new vehicle dealer licensed under Section  
18 5-101 or a used vehicle dealer licensed under Section 5-102,  
19 excepting a dealer who is licensed only to sell trailers.

20       "Fund" means the Dealer Recovery Trust Fund.

21       "Fund Administrator" means the entity that administers the  
22 Dealer Recovery Trust Fund, which shall be a statewide  
23 automobile dealers trade association representing new vehicle  
24 dealers or an entity created by a statewide automobile dealers  
25 trade association representing new vehicle dealers  
26 specifically for the purpose of administering the Dealer

1 Recovery Trust Fund.

2 (c) Beginning October 1, 2011, each application or renewal  
3 for a new vehicle dealer's license and each application or  
4 renewal for a used vehicle dealer's license shall be  
5 accompanied by the applicable Annual Dealer Recovery Fund Fee  
6 under Section 5-101 or 5-102 of this Code. The fee shall be in  
7 addition to any other fees imposed under this Article, shall be  
8 submitted at the same time an application or renewal for a new  
9 vehicle dealer's license or used vehicle dealer's license is  
10 submitted, and shall be made payable to and remitted directly  
11 to the Dealer Recovery Trust Fund, a trust fund outside of the  
12 State treasury which is hereby created. In addition, the Dealer  
13 Recovery Trust Fund may accept any federal, State, or private  
14 moneys for deposit into the Fund.

15 (d) The Fund Administrator shall maintain a list of all  
16 dealers who have paid the fee under subsection (c) of this  
17 Section for the current year, which shall be available to the  
18 Secretary of State and the Board. If the Secretary of State  
19 determines that an applicant for a dealer license was required  
20 to pay the fee but did not, the Secretary of State shall revoke  
21 the applicant's dealer license. The Secretary of State shall  
22 revoke the dealer license of any dealer who does not pay the  
23 fee imposed under subsection (c) of this Section. The Secretary  
24 of State and the Fund Administrator may enter into information  
25 sharing agreements as needed to implement this Section.

26 (e) The Fund shall be audited annually by an independent

1 auditor who is a certified public accountant and who has been  
2 selected by the Board. The independent auditor shall compile an  
3 annual report, which shall be filed with the Board and shall be  
4 a public record. The auditor shall be paid by the Fund,  
5 pursuant to an order of the Board.

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

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

1 previous years.

2 (h) Moneys deposited into the Dealer Recovery Trust Fund  
3 may be paid from the Fund only as directed by a written order  
4 of the Board and used only for the following purposes:

5 (i) to pay claims under a written order of the Board as  
6 provided in this Section; or

7 (ii) to reimburse the Fund Administrator for its  
8 expenses related to the administration of the Fund,  
9 provided that the reimbursement to the Fund Administrator  
10 in any year shall not exceed 2% of the balance in the Fund  
11 as of January 15th of that year.

12 (i) The Dealer Recovery Trust Fund Board is hereby created.  
13 The Board shall consist of the Secretary of State, or his or  
14 her designee, who shall serve as chair, the Attorney General,  
15 or his or her designee, who shall serve as secretary, and one  
16 person selected collectively by the Illinois Automobile  
17 Dealers Association and the Chicago Automobile Trade  
18 Association. The Secretary of State may propose procedures and  
19 employ personnel as necessary to implement this Section. The  
20 Board shall meet at least twice per year, and as needed, as  
21 directed by the chair. The Board may not pay out any claims  
22 before the balance deposited into the Fund exceeds \$500,000.  
23 Board meetings shall be open to the public. The Board has the  
24 authority to take any action by at least a two-thirds majority  
25 vote.

26 (j) The following persons may apply to the Board for

1 reimbursement from the Dealer Recovery Trust Fund:

2 (i) A retail customer who, on or after October 1, 2011,  
3 purchases a vehicle from a dealer who subsequently files  
4 for bankruptcy or whose vehicle dealer's license is  
5 subsequently revoked by the Secretary of State or otherwise  
6 terminated and, as part of the purchase transaction, trades  
7 in a vehicle with an outstanding lien to the dealer if lien  
8 satisfaction was a condition of the purchase agreement and  
9 the retail customer determines that the lien has not been  
10 satisfied;

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

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

21 (k) To be considered by the Board, an applicant must submit  
22 his or her claim to the Board within 9 months after the date of  
23 the transaction that gave rise to the claim.

24 (l) At each meeting of the Board, it shall consider all  
25 claims that are properly submitted to it on forms prescribed by  
26 the Secretary of State at least 30 days before the date of the

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

20 (m) If the balance in the Fund at the time of any Board  
21 meeting is less than the amount of the total amount of all  
22 claims awarded at that meeting, then all awards made at that  
23 meeting shall be reduced, pro rata, so that the amount of  
24 claims does not exceed the balance in the Fund. At its next  
25 meeting, before it reviews new claims, the Board shall issue  
26 written orders to pay the remaining portion of any claims that

1 were so reduced, provided that the balance in the Fund is  
2 sufficient to pay those claims.

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

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

20 (p) No dealer or principal associated with a dealer's  
21 license is eligible for licensure, renewal or relicensure until  
22 the full amount of reimbursement for an unpaid claim, plus  
23 interest as determined by the Board, is paid to the Fund.  
24 Nothing in this Section shall limit the authority of the  
25 Secretary of State to suspend, revoke, or levy civil penalties  
26 against a dealer, nor shall full repayment of the amount owed



1 to the Fund nullify or modify the effect of any action by the  
2 Secretary.

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

7 (625 ILCS 5/5-501) (from Ch. 95 1/2, par. 5-501)  
8 Sec. 5-501. Denial, suspension or revocation or  
9 cancellation of a license.

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

16 1. Violated this Act;

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

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

25 4. As a new vehicle dealer has no contract with a

1 manufacturer or enfranchised distributor to sell that new  
2 vehicle in this State;

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

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

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

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

17 a. the "Consumer Finance Act";

18 b. the "Consumer Installment Loan Act";

19 c. the "Retail Installment Sales Act";

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

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

26 f. "An Act to promote the welfare of wage-earners

1 by regulating the assignment of wages, and prescribing  
2 a penalty for the violation thereof", approved July 1,  
3 1935, as amended;

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

6 h. the "Consumer Fraud Act";

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

11 10. Converted an abandoned vehicle;

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

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

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

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

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

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

25 17. Acted in the capacity of a person licensed or acted  
26 as a licensee under this Chapter without having a license

1           therefor;

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

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

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

12           1. Failure to make a tax return;

13           2. The filing of a fraudulent return;

14           3. Failure to pay all or part of any tax or penalty  
15 finally determined to be due;

16           4. Failure to comply with the bonding requirements of  
17 the "Retailers' Occupation Tax Act".

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

1 demand for payment of the fees or costs at least 2 times, and  
2 the second notice and demand must be sent by certified mail.

3 (c) Cancellation of a license.

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

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

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

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

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

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

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

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