



Rep. Marlow H. Colvin

Filed: 4/12/2011

09700HB0880ham002

LRB097 03709 HEP 54371 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 (h) 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 (h) 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 (h) 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) The Dealer Recovery Trust Fund shall be used solely for
11 the limited purpose of helping victims of dealership closings.
12 Any interest accrued by moneys in the Fund shall be deposited
13 and become part of the Dealer Recovery Trust Fund and its
14 purpose. The sole beneficiaries of the Dealer Recovery Trust
15 Fund are victims of dealership closings.

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

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

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

23 "Dealer" means a new vehicle dealer licensed under Section
24 5-101 or a used vehicle dealer licensed under Section 5-102,
25 excepting a dealer who is licensed only to sell trailers.

26 "Fund" means the Dealer Recovery Trust Fund created under

1 this Section.

2 "Fund Administrator" means the entity that administers the
3 Dealer Recovery Trust Fund, which shall be a statewide
4 automobile dealers trade association representing new vehicle
5 dealers or an entity created by a statewide automobile dealers
6 trade association representing new vehicle dealers
7 specifically for the purpose of administering the Dealer
8 Recovery Trust Fund.

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

22 (e) The Fund Administrator shall maintain a list of all
23 dealers who have paid the fee under subsection (d) of this
24 Section for the current year, which shall be available to the
25 Secretary of State and the Board. The Secretary of State shall
26 revoke the dealer license of any dealer who does not pay the

1 fee imposed under subsection (d) of this Section. The Secretary
2 of State and the Fund Administrator may enter into information
3 sharing agreements as needed to implement this Section.

4 (f) The Fund shall be audited annually by an independent
5 auditor who is a certified public accountant and who has been
6 selected by the Board. The independent auditor shall compile an
7 annual report, which shall be filed with the Board and shall be
8 a public record. The auditor shall be paid by the Fund,
9 pursuant to an order of the Board.

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

24 (h) In any year for which the balance in the Fund as of
25 August 31st is greater than \$3,500,000, the Fund Administrator
26 shall notify the Secretary of State and the Secretary of State

1 shall suspend collection of the fee for the following year for
2 any dealer who has not had a claim paid from the Fund, has not
3 had his or her license suspended or revoked, and has not been
4 assessed any civil penalties under this Code during the 3
5 previous years.

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

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

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

16 (j) The Dealer Recovery Trust Fund Board is hereby created.
17 The Board shall consist of the Secretary of State, or his or
18 her designee, who shall serve as chair, the Attorney General,
19 or his or her designee, who shall serve as secretary, and one
20 person representing Illinois automobile dealers, selected
21 collectively by the Attorney General, or his or her designee,
22 and the Secretary of State, or his or her designee. The
23 Secretary of State may propose procedures and employ personnel
24 as necessary to implement this Section. The Board shall meet at
25 least twice per year, and as needed, as directed by the chair.
26 The Board may not pay out any claims before the balance

1 deposited into the Fund exceeds \$500,000. Board meetings shall
2 be open to the public. The Board has the authority to take any
3 action by at least a two-thirds majority vote.

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

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

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

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

25 (l) To be considered by the Board, an applicant must submit
26 his or her claim to the Board within 9 months after the date of

1 the transaction that gave rise to the claim.

2 (m) At each meeting of the Board, it shall consider all
3 claims that are properly submitted to it on forms prescribed by
4 the Secretary of State at least 30 days before the date of the
5 Board's meeting. Before the Board may consider a claim against
6 a dealer, it must make a written determination that the dealer
7 has filed for bankruptcy under the provisions of 11 U.S.C.
8 Chapter 7; that the Secretary of State has revoked his or her
9 dealer's license; or that the license has been otherwise
10 terminated. Once the Board has made this determination, it may
11 consider the applicant's claim against the dealer. If a
12 two-thirds majority of the Board determines that the dealer has
13 committed a violation under subsection (k), it shall grant the
14 applicant's claim. Except as otherwise provided in this
15 Section, the maximum amount of any award for a claim under
16 paragraph (i) of subsection (k) of this Section shall be equal
17 to the amount of the unpaid balance of the lien that the dealer
18 agreed to pay off on behalf of the applicant as shown on the
19 bill of sale or the retail installment sales contract. The
20 maximum amount of any claim under paragraph (ii) or (iii) of
21 subsection (k) of this Section shall be equal to the amount of
22 the undisclosed lien. However, no award for a claim under
23 subsection (k) of this Section shall exceed \$35,000.

24 (n) If the balance in the Fund at the time of any Board
25 meeting is less than the amount of the total amount of all
26 claims awarded at that meeting, then all awards made at that

1 meeting shall be reduced, pro rata, so that the amount of
2 claims does not exceed the balance in the Fund. Before it
3 reviews new claims, the Board shall issue written orders to pay
4 the remaining portion of any claims that were so reduced,
5 provided that the balance in the Fund is sufficient to pay
6 those claims.

7 (o) Whenever the balance of the Fund falls below \$500,000,
8 the Board may charge dealers an additional assessment of up to
9 \$50 to bring the balance to at least \$500,000. Not more than
10 one additional assessment may be made against a dealer in any
11 12-month period.

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

16 (q) The Board shall issue a written order directing the
17 Fund Administrator to pay an applicant's claim to a secured
18 party where the Board has received a signed agreement between
19 the applicant and the secured party holding the lien. The
20 agreement must (i) state that the applicant and the secured
21 party agree to accept payment from the Fund to the secured
22 party as settlement in full of all claims against the dealer;
23 and (ii) release the lien and the title, if applicable, to the
24 vehicle that was the subject of the claim. The written order
25 shall state the amount of the claim and the name and address of
26 the secured party to whom the claim shall be paid. The Fund

1 Administrator shall pay the claim within 30 days after it
2 receives the Board's order.

3 (r) No dealer or principal associated with a dealer's
4 license is eligible for licensure, renewal or relicensure until
5 the full amount of reimbursement for an unpaid claim, plus
6 interest as determined by the Board, is paid to the Fund.
7 Nothing in this Section shall limit the authority of the
8 Secretary of State to suspend, revoke, or levy civil penalties
9 against a dealer, nor shall full repayment of the amount owed
10 to the Fund nullify or modify the effect of any action by the
11 Secretary.

12 (s) Nothing in this Section shall limit the right of any
13 person to seek relief through civil action against any other
14 person as an alternative to seeking reimbursement from the
15 Fund.

16 (625 ILCS 5/5-501) (from Ch. 95 1/2, par. 5-501)

17 Sec. 5-501. Denial, suspension or revocation or
18 cancellation of a license.

19 (a) The license of a person issued under this Chapter may
20 be denied, revoked or suspended if the Secretary of State finds
21 that the applicant, or the officer, director, shareholder
22 having a ten percent or greater ownership interest in the
23 corporation, owner, partner, trustee, manager, employee or the
24 licensee has:

- 25 1. Violated this Act;

1 2. Made any material misrepresentation to the
2 Secretary of State in connection with an application for a
3 license, junking certificate, salvage certificate, title
4 or registration;

5 3. Committed a fraudulent act in connection with
6 selling, bartering, exchanging, offering for sale or
7 otherwise dealing in vehicles, chassis, essential parts,
8 or vehicle shells;

9 4. As a new vehicle dealer has no contract with a
10 manufacturer or enfranchised distributor to sell that new
11 vehicle in this State;

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

14 6. Failed to file or produce for the Secretary of State
15 any application, report, document or other pertinent
16 books, records, documents, letters, contracts, required to
17 be filed or produced under this Code or any rule or
18 regulation made by the Secretary of State pursuant to this
19 Code;

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

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

26 a. the "Consumer Finance Act";

- 1 b. the "Consumer Installment Loan Act";
- 2 c. the "Retail Installment Sales Act";
- 3 d. the "Motor Vehicle Retail Installment Sales
- 4 Act";
- 5 e. "An Act in relation to the rate of interest and
- 6 other charges in connection with sales on credit and
- 7 the lending of money", approved May 24, 1879, as
- 8 amended;
- 9 f. "An Act to promote the welfare of wage-earners
- 10 by regulating the assignment of wages, and prescribing
- 11 a penalty for the violation thereof", approved July 1,
- 12 1935, as amended;
- 13 g. Part 8 of Article XII of the Code of Civil
- 14 Procedure; or
- 15 h. the "Consumer Fraud Act";
- 16 9. Failed to pay any fees or taxes due under this Act,
- 17 or has failed to transmit any fees or taxes received by him
- 18 for transmittal by him to the Secretary of State or the
- 19 State of Illinois;
- 20 10. Converted an abandoned vehicle;
- 21 11. Used a vehicle identification plate or number
- 22 assigned to a vehicle other than the one to which
- 23 originally assigned;
- 24 12. Violated the provisions of Chapter 5 of this Act,
- 25 as amended;
- 26 13. Violated the provisions of Chapter 4 of this Act,

1 as amended;

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

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

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

8 17. Acted in the capacity of a person licensed or acted
9 as a licensee under this Chapter without having a license
10 therefor;

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

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

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

21 1. Failure to make a tax return;

22 2. The filing of a fraudulent return;

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

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

1 (b-1) In addition to other grounds specified in this
2 Chapter, the Secretary of State, on complaint of the Motor
3 Vehicle Review Board, shall refuse the issuance or renewal of a
4 license, or suspend or revoke that license, if costs or fees
5 assessed under Section 29 or Section 30 of the Motor Vehicle
6 Franchise Act have remained unpaid for a period in excess of 90
7 days after the licensee received from the Motor Vehicle Board a
8 second notice and demand for the costs or fees. The Motor
9 Vehicle Review Board must send the licensee written notice and
10 demand for payment of the fees or costs at least 2 times, and
11 the second notice and demand must be sent by certified mail.

12 (c) Cancellation of a license.

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

16 A. When a license is voluntarily surrendered, by
17 the licensed person; or

18 B. If the business enterprise is a sole
19 proprietorship, which is not a franchised dealership,
20 when the sole proprietor dies or is imprisoned for any
21 period of time exceeding 30 days; or

22 C. If the license was issued to the wrong person or
23 corporation, or contains an error on its face. If any
24 person above whose license has been cancelled wishes to
25 apply for another license, whether during the same
26 license year or any other year, that person shall be

1 treated as any other new applicant and the cancellation
2 of the person's prior license shall not, in and of
3 itself, be a bar to the issuance of a new license.

4 2. The license of a person issued under this Chapter
5 may be cancelled without a hearing when the Secretary of
6 State is notified that the applicant, or any officer,
7 director, shareholder having a 10 per cent or greater
8 ownership interest in the corporation, owner, partner,
9 trustee, manager, employee or member of the applicant or
10 the licensee has been convicted of any felony involving the
11 selling, bartering, exchanging, offering for sale, or
12 otherwise dealing in vehicles, chassis, essential parts,
13 vehicle shells, or ownership documents relating to any of
14 the above items.

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

16 Section 99. Effective date. This Act takes effect October
17 1, 2011."