

**SENATE BILL NO. 554**

April 29, 1999, Introduced by Senators ROGERS, GAST, SHUGARS, STEIL, BULLARD, GOUGEON, JOHNSON, BENNETT, HAMMERSTROM, NORTH and MC COTTER and referred to the Committee on Transportation and Tourism.

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending section 248 (MCL 257.248), as amended by 1998 PA 384.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 248. (1) A dealer license shall not be granted under  
2 this section until an investigation is made of the applicant's  
3 qualifications under this act, except that this subsection does  
4 not apply to license renewals. The secretary of state shall make  
5 the investigation within 15 days after receiving the application  
6 and make a report on the investigation.

7       (2) An applicant for a new vehicle dealer or a used or sec-  
8 ondhand vehicle dealer or broker license shall ~~accompany the~~  
9 ~~application with~~ INCLUDE a properly executed bond or renewal  
10 certificate WITH THE APPLICATION. If a renewal certificate is

1 used, the bond ~~shall be~~ IS considered ~~as~~ renewed for each  
2 succeeding year in the same amount and with the same effect as an  
3 original bond. The bond shall be in the sum of \$10,000.00 with  
4 good and sufficient surety to be approved by the secretary of  
5 state. The bond shall ~~be conditioned to~~ indemnify or reimburse  
6 a purchaser, seller, financing agency, or governmental agency for  
7 monetary loss caused through fraud, cheating, or misrepresenta-  
8 tion in the conduct of the vehicle business whether the fraud,  
9 cheating, or misrepresentation was made by the dealer or by an  
10 employee, agent, or salesperson of the dealer. The surety ~~is~~  
11 ~~required to~~ SHALL make indemnification or reimbursement for a  
12 monetary loss only after judgment based on fraud, cheating, or  
13 misrepresentation has been entered in a court of record against  
14 the licensee. The bond shall also ~~be conditioned to~~ indemnify  
15 or reimburse the state for any sales tax deficiency as provided  
16 in the general sales tax act, 1933 PA 167, MCL 205.51 to 205.78,  
17 or use tax deficiency as provided in the use tax act, 1937 PA 94,  
18 MCL 205.91 to 205.111, for the year in which the bond ~~was~~ IS in  
19 force. The surety ~~is required to~~ SHALL make indemnification or  
20 reimbursement only after final judgment has been entered in a  
21 court of record against the licensee. A dealer or applicant who  
22 has furnished satisfactory proof that a bond similar to the bond  
23 required by this subsection is executed and in force is exempt  
24 from the bond provisions set forth in this subsection. The  
25 aggregate liability of the surety shall not exceed the sum of the  
26 bond. The surety on the bond may cancel the bond upon giving 30  
27 days' notice in writing to the secretary of state and thereafter

1 is not liable for a breach of condition occurring after the  
2 effective date of the cancellation.

3 (3) An applicant for a new vehicle dealer or a used or sec-  
4 ondhand vehicle dealer license shall ~~accompany the application~~  
5 ~~with an application~~ APPLY for not less than 2 dealer plates as  
6 provided by section 245 ~~, accompanied by~~ AND SHALL INCLUDE WITH  
7 THE APPLICATION the proper fee as provided by section 803.

8 (4) ~~A dealer required to be licensed under this section,~~  
9 ~~as~~ AS a condition precedent to the granting of a license, A  
10 DEALER shall file with the secretary of state an irrevocable  
11 written stipulation, authenticated by the applicant, stipulating  
12 and agreeing that legal process affecting the dealer, served on  
13 the secretary of state or a deputy of the secretary of state, has  
14 the same effect as if personally served on the dealer. This  
15 appointment remains in force as long as THE DEALER HAS any  
16 OUTSTANDING liability ~~of the dealer remains outstanding~~ within  
17 this state.

18 (5) A person shall not carry on or conduct the business of  
19 buying, selling, brokering, or dealing in vehicles of a type  
20 required to be titled under this act unless the person obtains a  
21 dealer license from the secretary of state authorizing the carry-  
22 ing on or conducting of that business. A person shall not carry  
23 on or conduct the business of buying, selling, brokering, or  
24 dealing in distressed, late model vehicles or salvageable parts  
25 unless the person obtains a used or secondhand vehicle parts  
26 dealer, an automotive recycler, or a salvage pool license from  
27 the secretary of state or is an insurance company admitted to

1 conduct business in this state. A person shall not carry on or  
2 conduct the business of buying vehicles to process into scrap  
3 metal or store or display vehicles as an agent or escrow agent of  
4 an insurance company ~~—,~~ unless the person obtains a dealer  
5 license from the secretary of state. A vehicle scrap metal pro-  
6 cessor who does not purchase vehicles or salvageable parts from  
7 unlicensed persons ~~shall~~ IS not ~~be~~ required to obtain a  
8 dealer license. A person from another state shall not purchase,  
9 sell, or otherwise deal in distressed, late model vehicles or  
10 salvageable parts unless the person obtains a foreign salvage  
11 vehicle dealer license from the secretary of state as prescribed  
12 under section 248b. A person, including a dealer, shall not pur-  
13 chase or acquire a distressed, late model vehicle or a salvagea-  
14 ble part through a salvage pool, auction, or broker without a  
15 license as a salvage vehicle agent. The secretary of state shall  
16 investigate and seek prosecution, if necessary, of persons  
17 allegedly conducting a business without a license.

18 (6) The application for a dealer license shall be in the  
19 form prescribed by the secretary of state and shall be signed by  
20 the applicant. In addition to other information as may be  
21 required by the secretary of state, the application shall include  
22 all of the following:

23 (a) Name of applicant.

24 (b) Location of applicant's established place of business in  
25 this state.

26 (c) The name under which business is to be conducted.

1 (d) If the business is a corporation, the state of  
2 incorporation.

3 (e) Name, address, date of birth, and social security number  
4 of each owner or partner and, if a corporation, the name,  
5 address, date of birth, and social security ~~numbers~~ NUMBER of  
6 each of the principal officers.

7 (f) The county in which the business is to be conducted and  
8 the address of each place of business in that county.

9 (g) If new vehicles are to be sold, the make to be handled.  
10 Each new vehicle dealer shall send with the application for  
11 license a certification that the dealer holds a bona fide con-  
12 tract to act as factory representative, factory distributor, or  
13 distributor representative to sell at retail ..... (the make  
14 of vehicle to be sold).

15 (h) A statement of the previous history, record, and associ-  
16 ations of the applicant and of each owner, partner, officer, and  
17 director, which statement shall be sufficient to establish to the  
18 satisfaction of the secretary of state the business reputation  
19 and character of the applicant.

20 (i) A statement showing whether the applicant has previously  
21 applied for a license, the result of the application, and whether  
22 the applicant has ever been the holder of a dealer license  
23 ~~which~~ THAT was revoked or suspended.

24 (j) If the applicant is a corporation or partnership, a  
25 statement showing whether a partner, employee, officer, or direc-  
26 tor has been refused a license or has been the holder of a  
27 license ~~which~~ THAT was revoked or suspended.

1 (k) If the application is for a used or secondhand vehicle  
2 parts dealer or an automotive recycler, IT SHALL INCLUDE all of  
3 the following:

4 (i) Evidence that the applicant maintains or will maintain  
5 an established place of business.

6 (ii) Evidence that the applicant maintains or will maintain  
7 a police book and vehicle parts purchase and sales records as  
8 required under this act.

9 (iii) Evidence of worker's compensation insurance coverage  
10 for employees classified under the ~~standard~~ NORTH AMERICAN  
11 industrial classification SYSTEM number ~~4015~~ 42114, entitled  
12 "motor vehicle parts ~~---used~~ (USED) WHOLESALERS" or under the  
13 national council on compensation insurance CLASSIFICATION code  
14 number 3821, entitled "automobile dismantling AND DRIVERS", if  
15 applicable.

16 (l) Certification that neither the applicant nor another  
17 person named on the application is acting as the alter ego ~~or in~~  
18 ~~the place of or on behalf~~ of any other person or persons in  
19 seeking the license. For the purpose of this subdivision, "alter  
20 ego" means a person who acts for and on behalf of, or in the  
21 place of, another person for purposes of obtaining a vehicle  
22 dealer license.

23 (7) A person shall ~~make a separate application~~ APPLY  
24 SEPARATELY for a dealer license for each county in which business  
25 is to be conducted. ~~and a dealer, before~~ BEFORE moving 1 or  
26 more of his or her places of business ~~—~~ or opening an  
27 additional place of business, A DEALER shall apply to the

1 secretary of state for and obtain a supplemental dealer license,  
 2 for which a fee shall not be charged. ~~The~~ A dealer license  
 3 ~~shall entitle~~ ENTITLES the dealer to conduct ~~in the county~~  
 4 ~~covered by the license~~ the business of buying, selling, and  
 5 dealing in vehicles or salvageable parts IN THE COUNTY COVERED BY  
 6 THE LICENSE. The dealer license ~~shall~~ also ~~entitle~~ ENTITLES  
 7 the dealer to conduct ~~at any other established place of business~~  
 8 ~~in this state~~ only the business of buying, selling, or dealing  
 9 in vehicles at wholesale AT ANY OTHER ESTABLISHED PLACE OF BUSI-  
 10 NESS OF THE DEALER IN THIS STATE.

11 (8) The secretary of state shall classify and differentiate  
 12 vehicle dealers according to the type of activity they perform.  
 13 A dealer shall not engage in activities of a particular classifi-  
 14 cation as provided in this act unless the dealer is licensed in  
 15 that classification. An applicant may apply for a dealer license  
 16 in 1 or more of the following classifications:

- 17 (a) New vehicle dealer.
- 18 (b) Used or secondhand vehicle dealer.
- 19 (c) Used or secondhand vehicle parts dealer.
- 20 (d) Vehicle scrap metal processor.
- 21 (e) Vehicle salvage pool operator.
- 22 (f) Distressed vehicle transporter.
- 23 (g) Broker.
- 24 (h) Foreign salvage vehicle dealer.
- 25 (i) Automotive recycler.

26 (9) A dealer license ~~shall expire~~ EXPIRES on December 31  
 27 of the last year for which the license is issued. The secretary

1 of state may renew a dealer license for a period of not more than  
2 4 years upon application and payment of the fee required by sec-  
3 tion 807.

4 (10) A DEALER MAY CONDUCT THE BUSINESS OF BUYING, SELLING,  
5 OR DEALING IN MOTOR HOMES, TRAILER COACHES, TRAILERS, OR PICKUP  
6 CAMPERS AT A RECREATIONAL VEHICLE SHOW CONDUCTED AT A LOCATION IN  
7 THIS STATE WITHOUT OBTAINING A SEPARATE OR SUPPLEMENTAL LICENSE  
8 UNDER SUBSECTION (7) IF ALL OF THE FOLLOWING APPLY:

9 (A) THE DEALER IS LICENSED AS A NEW VEHICLE DEALER OR USED  
10 OR SECONDHAND VEHICLE DEALER.

11 (B) A RECREATIONAL VEHICLE OR CAMPGROUND ASSOCIATION REGIS-  
12 TERED WITH AND APPROVED BY THE SECRETARY OF STATE SPONSORS THE  
13 RECREATIONAL VEHICLE SHOW.

14 (C) THE DURATION OF THE RECREATIONAL VEHICLE SHOW IS NOT  
15 MORE THAN 14 DAYS.

16 (D) NOT LESS THAN 14 DAYS BEFORE THE BEGINNING DATE OF THE  
17 RECREATIONAL VEHICLE SHOW, THE RECREATIONAL VEHICLE OR CAMPGROUND  
18 ASSOCIATION SPONSOR NOTIFIES THE SECRETARY OF STATE, IN A MANNER  
19 AND FORM PRESCRIBED BY THE SECRETARY OF STATE, THAT THE RECREA-  
20 TIONAL VEHICLE SHOW IS SCHEDULED, THE LOCATION, DATES, AND TIMES  
21 OF THE RECREATIONAL VEHICLE SHOW, AND THE NAME, ADDRESS, AND  
22 DEALER LICENSE NUMBER OF EACH DEALER PARTICIPATING IN THE RECREA-  
23 TIONAL VEHICLE SHOW.