

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 904

Short Title: Off-Premise MV Sales Regulated.

(Public)

Sponsors: Representative Kerr.

Referred to: Judiciary II.

April 18, 1991

A BILL TO BE ENTITLED

AN ACT TO PROHIBIT THE SALE OF MOTOR VEHICLES BY MOTOR VEHICLE DEALERS AT LOCATIONS OTHER THAN LICENSED ESTABLISHED PLACES OF BUSINESS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-286(6) reads as rewritten:

"(6) 'Established place of business' means a salesroom containing at least 96 square feet of floor space in a permanent enclosed building; said salesroom shall have displayed thereon or immediately adjacent thereto a sign, in block letters not less than three inches in height on contrasting background, clearly and distinctly designating the trade name of the business at which a permanent business of bartering, trading and selling motor vehicles will be carried on as such in good faith during normal business hours for a minimum of at least four days per week, 46 weeks per year, and at which place of business shall be kept and maintained the books, records and files as the Division may require necessary to conduct the business at such place. Provided, however, the minimum area requirement provided for in this subdivision is not applicable to any established place of business lawfully in existence and duly licensed on or before January 1, 1978."

Sec. 2. G.S. 20-288 reads as rewritten:

"§ 20-288. Application for license; information required and considered; expiration of license; ~~supplemental license; bond.~~

1 (a) Application for license shall be made to the Division at such time, in such
2 form, and contain such information as the Division shall require, and shall be
3 accompanied by the required fee.

4 (b) The Division shall require in such application, or otherwise, information
5 relating to matters set forth in G.S. 20-294 as grounds for the refusing of licenses, and to
6 other pertinent matter commensurate with the safeguarding of the public interest, all of
7 which shall be considered by the Division in determining the fitness of the applicant to
8 engage in the business for which he seeks a license.

9 (c) All licenses that are granted shall expire unless sooner revoked or suspended,
10 on June 30 of the year following date of issue.

11 (d) ~~Supplemental licenses shall be issued for each place of business, operated or~~
12 ~~proposed to be operated by the licensee, that is not contiguous to other premises for~~
13 ~~which a license is issued. No license may be issued for any location or place of business~~
14 that does not meet the requirements of an 'established place of business' as defined in
15 G.S. 20-266(6); provided, however, that a location or place of business operated or
16 proposed to be operated by the licensee that is contiguous to or located within 100 yards
17 of other premises for which a license has been issued or for which application has been
18 made shall be considered part of the same established place of business. Except as
19 provided herein, a separate license shall be required for each location or place of
20 business operated or proposed to be operated by the licensee.

21 (e) Each applicant approved by the Division for license as a motor vehicle dealer,
22 manufacturer, distributor branch, or factory branch shall furnish a corporate surety bond
23 or cash bond or fixed value equivalent thereof in the principal sum of fifteen thousand
24 dollars (\$15,000) and an additional principal sum of five thousand dollars (\$5,000) for
25 each additional place of business within this State at which motor vehicles are sold.
26 Each application for a license or a renewal of a license shall be accompanied by a list of
27 locations at which the applicant engages in the business of selling motor vehicles in this
28 State. A corporate surety bond shall be approved by the Commissioner as to form and
29 shall be conditioned that the obligor will faithfully conform to and abide by the
30 provisions of this Article and Article 15. A cash bond or fixed value equivalent thereof
31 shall be approved by the Commissioner as to form and terms of deposits as will secure
32 the ultimate beneficiaries of the bond; and such bond shall not be available for delivery
33 to any person contrary to the rules of the Commissioner. Any purchaser of a motor
34 vehicle who shall have suffered any loss or damage by any act of a motor vehicle dealer
35 that constitutes a violation of this Article or Article 15 shall have the right to institute an
36 action to recover against such motor vehicle dealer and the surety. Every licensee
37 against whom such action is instituted shall notify the Commissioner of the action
38 within 10 days after process is served on the licensee. A corporate surety bond shall
39 remain in force and effect and may not be canceled by the surety unless the motor
40 vehicle dealer, manufacturer, distributor branch, or factory branch has terminated the
41 operations of its business nor unless its license has been denied, suspended, or revoked
42 under G.S. 20-294. Such cancellation may be had only upon 30 days' written notice to
43 the Commissioner and shall not affect any liability incurred or accrued prior to the
44 termination of such 30-day period. Provided nothing herein shall apply to a motor

1 vehicle dealer, manufacturer, distributor branch or factory branch which deals only in
2 trailers having an empty weight of 4,000 pounds or less. This subsection shall not apply
3 to manufacturers of, or dealers in, mobile or manufactured homes who furnish a
4 corporate surety bond, cash bond, or fixed value equivalent thereof, pursuant to G.S.
5 143-143.12."

6 Sec. 3. G.S. 20-289(a) reads as rewritten:

7 "(a) The license fee for each fiscal year, or part thereof, shall be as follows:

- 8 (1) For motor vehicle dealers, distributors, and wholesalers, thirty dollars
9 (\$30.00) for each principal place of ~~business, plus eight dollars (\$8.00)~~
10 ~~for a supplementary license for each car lot not immediately adjacent~~
11 ~~thereto; business;~~
12 (2) For manufacturers, seventy-five dollars (\$75.00), and for each factory
13 branch in this State, forty-five dollars (\$45.00);
14 (3) For motor vehicle salesmen, five dollars (\$5.00);
15 (4) For factory representatives, or distributor branch representatives, six
16 dollars (\$6.00);
17 (5) Manufacturers, wholesalers, and distributors may operate as a motor
18 vehicle dealer, without any additional fee or license."

19 Sec. 4. G.S. 20-290(a) reads as rewritten:

20 "(a) The licenses of new motor vehicle dealers, used motor vehicle dealers,
21 manufacturers, factory branches, distributors, and distributor branches shall specify the
22 location of each place of business or branch or other location occupied or to be occupied
23 by the licensee in conducting his business as such, ~~and the license or supplementary license~~
24 issued therefor shall be conspicuously displayed on each of such premises. In the event
25 any such location is changed, the Division shall endorse the change of location on the
26 license, without charge."

27 Sec. 5. Chapter 20 of the General Statutes is amended by adding a new
28 section to read:

29 "**§ 20-292.1. Unlawful for new or used motor vehicle dealers to engage in the sale**
30 **of motor vehicles from locations other than licensed established places of**
31 **business.**

32 It shall be unlawful for any new or used motor vehicle dealer to display one or more
33 new or used motor vehicles for purposes of sale at any location other than an established
34 place of business duly licensed under this Article; provided, however, that nothing
35 contained herein shall be deemed to prevent or prohibit the bona fide use of automobiles
36 by motor vehicle dealers as 'demonstrators' for transportation purposes on which the
37 selling dealer's name or other sales information is placed, or the mere display of
38 vehicles as part of a bona fide trade show or exhibit at which no selling activities
39 relating to the vehicles take place."

40 Sec. 6. G.S. 20-292 is repealed.

41 Sec. 7. Any supplemental license issued to a motor vehicle dealer prior to the
42 effective date of this act shall expire, if not sooner upon its own terms, 120 days after
43 the effective date of this act.

1 Sec. 8. Any license issued to a motor vehicle dealer prior to the effective date
2 of this act which is inconsistent with any of the terms of this act shall expire, if not
3 sooner upon its own terms, 120 days from the effective date of this act; provided,
4 however, that any recipient of a license inconsistent with the provisions of this act
5 issued prior to the effective date of this act may apply to the Division for the issuance of
6 one or more licenses consistent with this act and, if that motor vehicle dealer has
7 satisfied all of the provisions contained in this act and all rules issued by the Division,
8 the Division shall issue the license.

9 Sec. 9. The Division may issue forms and rules to clarify and implement the
10 provisions of this act.

11 Sec. 10. This act is effective upon ratification.