

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 904
Committee Substitute Favorable 5/13/91

Short Title: Off-Premise MV Sales Regulated.

(Public)

Sponsors:

Referred to:

April 18, 1991

1 A BILL TO BE ENTITLED
2 AN ACT TO PROHIBIT THE SALE OF MOTOR VEHICLES BY MOTOR
3 VEHICLE DEALERS AT LOCATIONS OTHER THAN LICENSED
4 ESTABLISHED PLACES OF BUSINESS.

5 The General Assembly of North Carolina enacts:

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

7 "(6) 'Established place of business' means a salesroom containing at least
8 96 square feet of floor space in a permanent enclosed building; said
9 salesroom shall have displayed thereon or immediately adjacent
10 thereto a sign, in block letters not less than three inches in height on
11 contrasting background, clearly and distinctly designating the trade
12 name of the business at which a permanent business of bartering,
13 trading and selling motor vehicles will be carried on as such in good
14 faith on an ongoing basis during normal business hours for a minimum
15 of at least four days per week, 46 weeks per year, and at which place
16 of business shall be kept and maintained the books, records and files as
17 the Division may require necessary to conduct the business at such
18 place. A person licensed only as a wholesaler shall be exempt from the
19 minimum number of days or weeks per year. Provided, however, the
20 minimum area requirement provided for in this subdivision is not
21 applicable to any established place of business lawfully in existence
22 and duly licensed on or before January 1, 1978."

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

1 **"§ 20-288. Application for license; information required and considered;**
2 **expiration of license; supplemental license; bond.**

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

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

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

13 (d) ~~Supplemental licenses shall be issued for each place of business, operated or~~
14 ~~proposed to be operated by the licensee, that is not contiguous to other premises for~~
15 ~~which a license is issued. No license may be issued for any location or place of business~~
16 that does not meet the requirements of an 'established place of business' as defined in
17 G.S. 20-286(6); provided, however, that a location or place of business operated or
18 proposed to be operated by the licensee that is contiguous to or located within 100 yards
19 of other premises for which a license has been issued or for which application has been
20 made shall be considered part of the same established place of business. Except as
21 provided herein, a separate license shall be required for each location or place of
22 business operated or proposed to be operated by the licensee.

23 (e) Each applicant approved by the Division for license as a motor vehicle dealer,
24 manufacturer, distributor branch, or factory branch shall furnish a corporate surety bond
25 or cash bond or fixed value equivalent thereof in the principal sum of fifteen thousand
26 dollars (\$15,000) and an additional principal sum of five thousand dollars (\$5,000) for
27 each additional place of business within this State at which motor vehicles are sold.
28 Each application for a license or a renewal of a license shall be accompanied by a list of
29 locations at which the applicant engages in the business of selling motor vehicles in this
30 State. A corporate surety bond shall be approved by the Commissioner as to form and
31 shall be conditioned that the obligor will faithfully conform to and abide by the
32 provisions of this Article and Article 15. A cash bond or fixed value equivalent thereof
33 shall be approved by the Commissioner as to form and terms of deposits as will secure
34 the ultimate beneficiaries of the bond; and such bond shall not be available for delivery
35 to any person contrary to the rules of the Commissioner. Any purchaser of a motor
36 vehicle who shall have suffered any loss or damage by any act of a motor vehicle dealer
37 that constitutes a violation of this Article or Article 15 shall have the right to institute an
38 action to recover against such motor vehicle dealer and the surety. Every licensee
39 against whom such action is instituted shall notify the Commissioner of the action
40 within 10 days after process is served on the licensee. A corporate surety bond shall
41 remain in force and effect and may not be canceled by the surety unless the motor
42 vehicle dealer, manufacturer, distributor branch, or factory branch has terminated the
43 operations of its business nor unless its license has been denied, suspended, or revoked
44 under G.S. 20-294. Such cancellation may be had only upon 30 days' written notice to

1 the Commissioner and shall not affect any liability incurred or accrued prior to the
2 termination of such 30-day period. Provided nothing herein shall apply to a motor
3 vehicle dealer, manufacturer, distributor branch or factory branch which deals only in
4 trailers having an empty weight of 4,000 pounds or less. This subsection shall not apply
5 to manufacturers of, or dealers in, mobile or manufactured homes who furnish a
6 corporate surety bond, cash bond, or fixed value equivalent thereof, pursuant to G.S.
7 143-143.12."

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

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

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

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

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

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

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

34 It shall be unlawful for any new or used motor vehicle dealer to display one or more
35 new or used motor vehicles for purposes of retail sale at any location other than an
36 established place of business duly licensed under this Article; provided, however, that
37 nothing contained herein shall be deemed to prevent or prohibit the bona fide use of
38 automobiles by motor vehicle dealers as 'demonstrators' for transportation purposes on
39 which the selling dealer's name or other sales information is placed, or the mere display
40 of vehicles as part of a bona fide trade show or exhibit at which no selling activities
41 relating to the vehicles take place. This provision does not apply to manufacturers of, or
42 dealers in, mobile or manufactured type housing or recreational vehicles."

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

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

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

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

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