

GENERAL ASSEMBLY OF NORTH CAROLINA  
1991 SESSION

CHAPTER 662  
HOUSE BILL 904

AN ACT TO REGULATE THE SALE OF MOTOR VEHICLES BY MOTOR  
VEHICLE DEALERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-286, as amended by Section 1 of Chapter 527 of the 1991 Session Laws, reads as rewritten:

**"§ 20-286. Definitions.**

~~Unless the context otherwise requires, the following words and terms, for the purpose of this Article, shall have the following meanings: The following definitions apply in this Article:~~

(1)(2) Repealed by Session Laws 1973, c. 1330, s. 39.

(2a) ~~"Dealership facilities" means the Dealership facilities. – The real estate, buildings, fixtures and improvements which have been devoted to the conduct of business under the franchise by the new motor vehicle dealer.~~ a franchise.

(2b) ~~"Designated family member" means the Designated family member. –~~ The spouse, child, grandchild, parent, brother, or sister of a dealer, who, in the case of a deceased dealer, is entitled to inherit the dealer's ownership interest in the dealership under the terms of the dealer's will; or who has otherwise been designated in writing by a deceased dealer to succeed him in the motor vehicle dealership; or who under the laws of intestate succession of this State is entitled to inherit the interest; or who, in the case of an incapacitated dealer, has been appointed by a court as the legal representative of the dealer's property. The term includes the appointed and qualified personal representative and testamentary trustee of a deceased dealer.

(3) ~~"Distributor" and "wholesaler" mean a Distributor. – A person, resident or nonresident of this State, who sells or distributes new motor vehicles to new motor vehicle dealers in this State, or who maintains a distributor representative in this State, or who controls any person, firm, association, corporation or trust, resident or nonresident, who in whole or in part offers for sale, sells or distributes any new motor vehicle to any motor vehicle dealer in this State.~~

(4) ~~"Distributor branch" means a Distributor branch. – A branch office maintained by a distributor or wholesaler,~~ distributor for the sale of

new motor vehicles to new motor vehicle dealers, or for directing or supervising its—the distributor's representatives in this State.

(5) ~~"Distributor representative" means a~~ Distributor representative. – A person employed by a distributor or wholesaler, or by a distributor branch, branch for the purpose of making—selling or promoting the sale of new motor vehicles dealt in by it, or for supervising or contacting its dealers, prospective dealers, or representatives in this State. vehicles or otherwise conducting the business of the distributor or distributor branch.

(5a) Established office. – An office that meets the following requirements:  
a. Contains at least 96 square feet of floor space in a permanent enclosed building.  
b. Is a place where the books, records, and files required by the Division under this Article are kept.

(6) ~~'Established place of business' means a~~ Established salesroom. – A salesroom that meets the following requirements:  
a. ~~containing~~ Contains at least 96 square feet of floor space in a permanent enclosed building; said salesroom shall have displayed thereon or building.  
b. Displays, or is located immediately adjacent thereto a sign, in to, a sign having block letters not less than three inches in height on contrasting background, clearly and distinctly designating the trade name of the business—business.  
c. Is a place at which a permanent business of bartering, trading trading, and selling motor vehicles will be carried on as such in good faith on an ongoing basis whereby the dealer can be contacted by the public at reasonable times.  
d. ~~and at which place of business shall be kept and maintained~~ Is a place where the books, records—records, and files as required by the Division may require necessary to conduct the business at such place. under this Article are kept.

The term includes the area contiguous to or located within 500 feet of the premises on which the salesroom is located. The term does not include a tent, a temporary stand, or other temporary quarters. Provided, however, the ~~The~~ minimum area requirement provided for in this subdivision is not applicable—does not apply to any established place of business lawfully in existence and duly licensed on or before January 1, 1978.

(7) ~~"Factory branch" means a~~ Factory branch. – A branch office, maintained for the sale of new motor vehicles to new motor vehicle dealers, or for directing or supervising its—the factory branch's representatives in this State.

(8) ~~"Factory representative" means a~~ Factory representative. – A person employed by a person who manufactures or assembles motor vehicles,

~~or by a factory branch, manufacturer or a factory branch for the purpose of making selling or promoting the sale of its the manufacturer's motor vehicles, or for supervising or contacting its dealers, prospective dealers or representatives in this State. vehicles or otherwise conducting the business of the manufacturer or factory branch.~~

- (8a) ~~"Franchise" means the Franchise.~~ – A written agreement or contract between any new motor vehicle manufacturer, and any new motor vehicle dealer which purports to fix the legal rights and liabilities of the parties to such agreement or contract, and pursuant to which the dealer purchases and resells the franchised product or leases or rents the dealership premises.
- (8b) ~~"Good faith" seems honest Good faith.~~ – Honest in fact and the observation of reasonable commercial standards of fair dealing in the trade as defined and interpreted in G.S. 25-2-103(1)(b).
- (8c) ~~"Manufacturer" means any Manufacturer.~~ – A person, resident or nonresident, who manufactures or assembles motor vehicles, or who imports new motor vehicles for distribution through distributors of motor vehicles, a distributor, including any person, partnership, or corporation which person who acts for and is under the control of such the manufacturer or assembler in connection with the distribution of said the motor vehicles. Additionally, the term 'manufacturer' shall include the terms 'distributor' and 'factory branch' ~~which have been defined above. branch.'~~
- (9) Repealed by Session Laws 1973, c. 1330, s. 39.
- (10) ~~"Motor vehicle" means any Motor vehicle.~~ – Any motor propelled vehicle, trailer or semitrailer, required to be registered under the laws of this State.
- a. 'New motor vehicle' means a motor vehicle which has never been the subject of a sale other than between new motor vehicle dealers, or between manufacturer and dealer of the same franchise.
- b. 'Used motor vehicle' means a motor vehicle other than described in paragraph (10)a above.
- (11) ~~'Motor vehicle dealer' and 'dealer' mean any Motor vehicle dealer or dealer.~~ A person who does any of the following:
- a. For commission, money, or other thing of value, buys, sells, or exchanges, whether outright or on conditional sale, bailment lease, chattel mortgage, or otherwise, five or more motor vehicles within any 12 consecutive months, regardless of who owns the motor vehicles.
- b. On behalf of another and for commission, money, or other thing of value, arranges, offers, attempts to solicit, or attempts to negotiate the sale, purchase, or exchange of an interest in five or

more motor vehicles within any 12 consecutive months, regardless of who owns the motor vehicles.

- c. Engages, wholly or in part, in the business of selling new motor vehicles or new or used motor vehicles, or used motor vehicles only, whether or not the motor vehicles are owned by that person, and sells five or more motor vehicles within any 12 consecutive months.
- d. Offers to sell, displays, or permits the display for sale for any form of compensation five or more motor vehicles within any 12 consecutive months.
- e. Primarily engages in the leasing or renting of motor vehicles to others and sells or offers to sell those vehicles at retail.

The term 'motor vehicle dealer' or 'dealer' does not include any of the following:

- a. Receivers, trustees, administrators, executors, guardians, or other persons appointed by or acting under the judgment or order of any court.
- b. Public officers while performing their official duties.
- c. Persons disposing of motor vehicles acquired for their own use or the use of a family member, and actually so used, when the vehicles have been acquired and used in good faith and not for the purpose of avoiding the provisions of this Article.
- d. Persons who sell motor vehicles as an incident to their principal business but who are not engaged primarily in the selling of motor vehicles. This category includes financial institutions who sell repossessed motor vehicles and insurance companies who sell motor vehicles to which they have taken title as an incident of payments made under policies of insurance and who do not maintain a used car lot or building with one or more employed motor vehicle ~~salesmen~~ sales representatives.
- e. Persons manufacturing, distributing or selling trailers and semitrailers weighing not more than 750 pounds and carrying not more than a 1,500 pound load.
- f. A licensed real estate broker or salesman who sells a mobile home for the owner as an incident to the sale of land upon which the mobile home is located.
- g. An employee of an organization arranging for the purchase or lease by the organization of vehicles for use in the organization's business.
- h. Any publication, broadcast, or other communications media when engaged in the business of advertising, but not otherwise arranging for the sale of motor vehicles owned by others.
- i. Any person dealing solely in the sale or lease of vehicles designed exclusively for off-road use.

- j. Any real property owner who leases any interest in property for use by a dealer.
  - k. Any person acquiring any interest in a motor vehicle for a family member.
- (12) ~~"Motor vehicle salesman" or "salesman"~~ means any Motor vehicle sales representative or salesman. – A person who is employed as a salesman sales representative by, or has an agreement with, a motor vehicle ~~dealer, dealer or a wholesaler~~ to sell or exchange motor vehicles.
- (13) ~~"New motor vehicle dealer"~~ means a New motor vehicle dealer. – A motor vehicle dealer who buys, sells or exchanges, or offers or attempts to negotiate a sale or exchange of an interest in, or who is engaged, wholly or in part, in the business of selling, new or new and used motor vehicles.
- (13a) ~~"Person" means every natural person, partnership, corporation, association, trust or estate or other legal entity.~~ Person. – Defined in G.S. 20-4.01.
- (13b) ~~"Relevant market area" or "trade area"~~ means the Relevant market area or trade area. – The area within a radius of 20 miles around an existing dealer or the area of responsibility defined in the franchise, whichever is greater; except that, where a manufacturer is seeking to establish an additional new motor vehicle dealer the relevant market area shall be as follows:
- a. If the population in an area within a radius of 10 miles around the proposed site is 250,000 or more, the relevant market area shall be that area within the 10 mile radius; or
  - b. If the population in an area within a radius of 10 miles around the proposed site is less than 250,000, but the population in an area within a radius of 15 miles around the proposed site is 150,000 or more, the relevant market area shall be that area within the 15 mile radius; or
  - c. ~~Except as defined in subsections (a) and (b) above,~~ subparts a. and b., the relevant market area shall be the area within a radius of 20 miles around an existing dealer.
- In determining population for this definition the most recent census by the U.S. Bureau of the Census or the most recent population update either from the National Planning Data Corporation or other similar recognized source shall be accumulated for all census tracts either wholly or partially within the relevant market area.
- (14) Repealed by Session Laws 1973, c. 1330, s. 39.
- (15) ~~"Retail installment sale" means and includes every~~ Retail installment sale. – A sale of one or more motor vehicles to a buyer for ~~his~~ the buyer's use and not for resale, in which the price thereof is payable in one or more installments over a period of time and in which the seller

has either retained title to the goods or has taken or retained a security interest in the goods under a form of contract designated either as a conditional sale, bailment lease, chattel mortgage or otherwise.

- (16) ~~"Used motor vehicle dealer"~~ means a Used motor vehicle dealer. – A motor vehicle dealer who buys, sells or exchanges, or offers or attempts to negotiate a sale or exchange of an interest in, or who is engaged, wholly or in part, in the business of selling, used motor vehicles only.
- (17) Wholesaler. – A person who sells or distributes used motor vehicles to motor vehicle dealers in this State, has a sales representative in this State, or controls any person who in whole or in part offers for sale, sells, or distributes any used motor vehicle to a motor vehicle dealer in this State. The provisions of G.S. 20-302, 20-305.1, and 20-305.2 that apply to distributors also apply to wholesalers."

Sec. 2. G.S. 20-287 reads as rewritten:

**"§ 20-287. Licenses required.**

It shall be unlawful for any new motor vehicle dealer, used motor vehicle dealer, motor vehicle ~~salesman, sales representative,~~ manufacturer, factory branch, factory representative, distributor, distributor branch, factory or distributor representative, or wholesaler to engage in business as such in this State without first obtaining a license as provided in this Article. If any motor vehicle dealer acts as a motor vehicle ~~salesman, he sales representative,~~ the dealer shall obtain a motor vehicle ~~salesman's sales representative's~~ license in addition to a motor vehicle dealer's license. A ~~salesman sales representative~~ may have only one ~~license, and such license.~~ The license shall show the name of ~~the dealer or dealers each dealer or wholesaler employing him.~~ A manufacturer or a factory branch or distributor or distributor branch, licensed as such, may also ~~operate as a motor vehicle dealer without additional license.~~ the sales representative. The following license holders may operate as a motor vehicle dealer without obtaining a motor vehicle dealer's license or paying an additional fee: a manufacturer, a factory branch, a distributor, and a distributor branch. Any of these license holders who operates as a motor vehicle dealer may sell motor vehicles at retail only at an established salesroom."

Sec. 3. G.S. 20-288, as amended by Chapter 495 of the 1991 Session Laws, reads as rewritten:

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

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

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

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

(d) ~~Supplemental licenses shall be issued for each place of business, operated or proposed to be operated by the licensee, that is not contiguous to other premises for which a license is issued. To obtain a license as a wholesaler, the applicant must have an established office in this State. To obtain a license as a motor vehicle dealer, an applicant must have an established salesroom in this State.~~

An applicant for a license as a manufacturer, a factory branch, a distributor, a distributor branch, a wholesaler, or a motor vehicle dealer must have a separate license for each established office, established salesroom, or other place of business in this State. An application for any of these licenses shall include a list of the applicant's places of business in this State.

(e) ~~Each applicant approved by the Division for license as a motor vehicle dealer, manufacturer, factory branch, distributor, distributor branch, or factory branch or wholesaler shall furnish a corporate surety bond or cash bond or fixed value equivalent thereof in the principal sum of twenty five thousand dollars (\$25,000) and an additional principal sum of ten thousand dollars (\$10,000) for each additional place of business within this State at which motor vehicles are sold. of the bond. The amount of the bond for an applicant for a motor vehicle dealer's license is twenty-five thousand dollars (\$25,000) for one established salesroom of the applicant and ten thousand dollars (\$10,000) for each of the applicant's additional established salesrooms. The amount of the bond for other applicants required to furnish a bond is twenty-five thousand dollars (\$25,000) for one place of business of the applicant and ten thousand dollars (\$10,000) for each of the applicant's additional places of business. Each application for a license or a renewal of a license shall be accompanied by a list of locations at which the applicant engages in the business of selling motor vehicles in this State.~~

A corporate surety bond shall be approved by the Commissioner as to form and shall be conditioned that the obligor will faithfully conform to and abide by the provisions of this Article and Article 15. A cash bond or fixed value equivalent thereof shall be approved by the Commissioner as to form and terms of deposits as will secure the ultimate beneficiaries of the bond; and such bond shall not be available for delivery to any person contrary to the rules of the Commissioner. Any purchaser of a motor vehicle who shall have suffered any loss or damage by any act of a ~~motor vehicle dealer license holder~~ subject to this subsection that constitutes a violation of this Article or Article 15 shall have the right to institute an action to recover against ~~such motor vehicle dealer the license holder~~ and the surety. Every ~~licensee~~ license holder against whom ~~such an~~ action is instituted shall notify the Commissioner of the action within 10 days after ~~process is served on the licensee.~~ served with process. A corporate surety bond shall remain in force and effect and may not be canceled by the surety unless the ~~motor vehicle dealer, manufacturer, distributor branch, or factory branch has terminated the operations of its business nor unless its bonded person stops engaging in business or the person's license has been~~ is denied, suspended, or revoked under G.S. 20-294. Such cancellation may be had only upon 30 days' written notice to the Commissioner and shall not affect any liability incurred or accrued prior to the termination of such 30-day period. ~~Provided~~

~~nothing herein shall apply to a motor vehicle dealer, manufacturer, distributor branch or factory branch which~~ This subsection does not apply to a license holder who deals only in trailers having an empty weight of 4,000 pounds or less. This subsection shall does not apply to manufacturers of, or dealers in, mobile or manufactured homes who furnish a corporate surety bond, cash bond, or fixed value equivalent thereof, pursuant to G.S. 143-143.12."

Sec. 4. G.S. 20-289 reads as rewritten:

**"§ 20-289. License fees.**

- (a) The license fee for each fiscal year, or part thereof, shall be as follows:
- (1) For motor vehicle dealers, distributors, distributor branches, and wholesalers, thirty dollars (\$30.00) for each ~~principal~~ place of business, plus ~~eight dollars (\$8.00) for a supplementary license for each car lot not immediately adjacent thereto;~~ business.
  - (2) For manufacturers, seventy-five dollars (\$75.00), and for each factory branch in this State, ~~forty-five dollars (\$45.00);~~ (\$45.00).
  - (3) For motor vehicle ~~salesmen,~~ sales representatives, five dollars ~~(\$5.00);~~ (\$5.00).
  - (4) For factory representatives, or distributor ~~branch~~-representatives, six dollars ~~(\$6.00);~~ (\$6.00).
  - (5) ~~Manufacturers, wholesalers, and distributors may operate as a motor vehicle dealer, without any additional fee or license.~~

(b) ~~The fees and licenses collected under this section shall be placed in~~ credited to the Highway Fund. Provided, that nothing contained in this section or in any other section of this Article shall be construed as exempting any person from any license tax or fee imposed by any other provision of the law. These fees are in addition to all other taxes and fees."

Sec. 5. G.S. 20-290(a) reads as rewritten:

~~"(a) The licenses~~ The license of a motor vehicle dealer shall list each of the dealer's established salesrooms in this State. A license of new motor vehicle dealers, used motor vehicle dealers, manufacturers, factory branches, distributors, and distributor branches ~~a manufacturer, factory branch, distributor, distributor branch, or wholesaler shall specify the location of each place of business or branch or other location occupied or to be occupied by the licensee in conducting his business as such, and the license or supplementary license issued therefor~~ list each of the license holder's places of business in this State. A license shall be conspicuously displayed on ~~at each of such premises.~~ place of business. In the event any such location is changed, the location of a business changes, the Division shall endorse the change of location on the license, without charge."

Sec. 6. G.S. 20-291 reads as rewritten:

**"§ 20-291. ~~Salesman, etc.,~~ Representatives to carry license and display it on request; license to name employer.**

Every ~~salesman,~~ person to whom a sales representative, factory representative and distributor representative ~~representative,~~ or distributor representative license is issued shall carry ~~his~~ the license when engaged in ~~his~~ business, and shall display ~~the same~~ it



upon request. The licensee license shall name his employer, and in the event of a change of employer, he state the name of the representative's employer. If the representative changes employers, the representative shall immediately mail his the license to the Division, which shall endorse such the change on the license without charge."

Sec. 7. G.S. 20-292 reads as rewritten:

**"§ 20-292. Use of unimproved lots and premises. Dealers may display motor vehicles for sale at retail only at established salesrooms.**

A licensed motor vehicle dealer may use vacant lots and premises for the sale and display of motor vehicles: Provided, that if such lots and premises are not immediately adjacent to the dealer's established place of business, a supplementary license shall be obtained for each lot or premises. A new or used motor vehicle dealer may display a motor vehicle for sale at retail only at the dealer's established salesroom, unless the display is of a motor vehicle that meets any of the following descriptions:

- (1) Contains the dealer's name or other sales information and is used by the dealer as a 'demonstrator' for transportation purposes.
- (2) Is displayed at a trade show or exhibit at which no selling activities relating to the vehicle take place.
- (3) Is displayed at the home or place of business of a customer at the request of the customer.

This section does not apply to recreational vehicles, house trailers, or boat, animal, camping, or other utility trailers."

Sec. 8. This act becomes effective October 1, 1991. A supplemental license issued to a motor vehicle dealer before the effective date of this act shall expire, if not sooner upon its own terms, 120 days after the effective date of this act.

In the General Assembly read three times and ratified this the 12th day of July, 1991.

---

James C. Gardner  
President of the Senate

---

Daniel Blue, Jr.  
Speaker of the House of Representatives