

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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HOUSE BILL 432
Committee Substitute Favorable 3/22/01
Third Edition Engrossed 4/5/01

Short Title: Licensing Selling of Cars.

(Public)

Sponsors:

Referred to:

March 1, 2001

A BILL TO BE ENTITLED

1
2 AN ACT TO ESTABLISH CIVIL PENALTIES FOR SELLING CARS IN
3 VIOLATION OF THE MOTOR VEHICLE DEALERS AND MANUFACTURERS
4 LICENSING LAW, AND TO ESTABLISH EDUCATIONAL REQUIREMENTS
5 FOR ISSUANCE AND RENEWAL OF LICENSURE FOR USED MOTOR
6 VEHICLE DEALERS.

7 Whereas, not only the setting of standards to protect purchasers of motor
8 vehicles but also the enforcement of substantial penalties applicable when those
9 standards are not met is one of the most effective means to obtain this protection; and

10 Whereas, more complex laws governing regulation of the sale and
11 distribution of motor vehicles such as the titling of a vehicle, warranties, collection of
12 consumer debt pursuant to Federal Trade Commission regulations, and applicable tax
13 provisions impose a greater number of duties upon independent automobile dealers; and

14 Whereas, the most effective and consistent means of informing both
15 applicants for licensure and experienced, licensed motor vehicle dealers of major
16 changes and increasing complexities in the law is to develop a program insuring the
17 development and requirement of appropriate continuing education; and

18 Whereas, to better effect these policies, it is necessary to increase to more
19 appropriate levels the fees for those persons regulated by the Motor Vehicle Dealers and
20 Manufacturers Licensing Law; Now, therefore,
21 The General Assembly of North Carolina enacts:

22 **SECTION 1.** G.S. 20-287 reads as rewritten:

23 "**§ 20-287. Licenses ~~required~~, required; penalties.**

24 (a) License Required. -- It shall be unlawful for any new motor vehicle dealer,
25 used motor vehicle dealer, motor vehicle sales representative, manufacturer, factory
26 branch, factory representative, distributor, distributor branch, distributor representative,
27 or wholesaler to engage in business in this State without first obtaining a license as
28 provided in this Article. If any motor vehicle dealer acts as a motor vehicle sales

1 representative, the dealer shall obtain a motor vehicle sales representative's license in
2 addition to a motor vehicle dealer's license. A sales representative may have only one
3 license. The license shall show the name of each dealer or wholesaler employing the
4 sales representative. The following license holders may operate as a motor vehicle
5 dealer without obtaining a motor vehicle dealer's license or paying an additional fee: a
6 manufacturer, a factory branch, a distributor, and a distributor branch. Any of these
7 license holders who operates as a motor vehicle dealer may sell motor vehicles at retail
8 only at an established salesroom.

9 (b) Criminal Penalty for Violation. -- Any person who violates any provision of
10 this section shall be guilty of a Class 1 misdemeanor, as provided in G.S. 20-308.

11 (c) Civil Penalty for Violations by Licensee. -- In addition to any other
12 punishment or remedy under the law for any violation of this section, the Division may
13 levy and collect a civil penalty, in an amount not to exceed one thousand dollars
14 (\$1,000) for each violation, against any person who has obtained a license pursuant to
15 this section, if it finds that the licensee has violated any of the provisions of this Article,
16 Article 15 of this Chapter, or any statute or rule adopted by the Division relating to the
17 sale of vehicles, vehicle titling, or vehicle registration.

18 (d) Civil Penalty for Violations by Person Without a License. -- The Division
19 may levy and collect a civil penalty, in an amount not to exceed five thousand dollars
20 (\$5,000) for each violation, against any person who is required to obtain a license under
21 this section and has not obtained the license, if it finds that the person has violated any
22 of the provisions of this Article, Article 15 of this Chapter, or any statute or rule adopted
23 by the Division relating to the sale of vehicles, vehicle titling, or vehicle registration."

24 **SECTION 2.** G.S. 20-288 reads as rewritten:

25 "**§ 20-288. Application for license; license requirements; expiration of license;**
26 **bond.**

27 (a) A ~~person~~ new motor vehicle dealer, motor vehicle sales representative,
28 manufacturer, factory branch, factory representative, distributor, distributor branch,
29 distributor representative, or wholesaler may obtain a license by filing an application
30 with the Division. An application must be on a form provided by the Division and
31 contain the information required by the Division. An application for a license must be
32 accompanied by the required fee and by an application for a dealer license plate.

33 (a1) A used motor vehicle dealer may obtain a license by filing an application, as
34 prescribed in subsection (a) of this section, and providing the following:

35 (1) The required fee.

36 (2) Proof that the applicant, within the last 12 months has completed a 12-
37 hour licensing course approved by the Division if the applicant is
38 seeking an initial license and a six-hour course approved by the
39 Division if the applicant is seeking a renewal license. The
40 requirements of G.S. 20-288(a1)(2) do not apply to a used motor
41 vehicle dealer the primary business of which is the sale of salvage
42 vehicles on behalf of insurers. The requirement of this subsection for

1 the completion of a licensing course does not apply to persons age 62
2 or older as of the effective date.

3 (3) If the applicant is an individual, proof that the applicant is at least 18
4 years of age and proof that all salespersons employed by the dealer are
5 at least 18 years of age.

6 (4) The application for a dealer license plate.

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

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

14 (d) To obtain a license as a wholesaler, an applicant who intends to sell or
15 distribute self-propelled vehicles must have an established office in this State, and an
16 applicant who intends to sell or distribute only trailers or semitrailers of less than 2500
17 pounds unloaded weight must have a place of business in this State where the records
18 required under this Article are kept.

19 To obtain a license as a motor vehicle dealer, an applicant who intends to deal in
20 self-propelled vehicles must have an established salesroom in this State, and an
21 applicant who intends to deal in only trailers or semitrailers of less than 2500 pounds
22 unloaded weight must have a place of business in this State where the records required
23 under this Article are kept.

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

29 (e) Each applicant approved by the Division for license as a motor vehicle dealer,
30 manufacturer, factory branch, distributor, distributor branch, or wholesaler shall furnish
31 a corporate surety bond or cash bond or fixed value equivalent of the bond. The amount
32 of the bond for an applicant for a motor vehicle dealer's license is twenty-five thousand
33 dollars (\$25,000) for one established salesroom of the applicant and ten thousand
34 dollars (\$10,000) for each of the applicant's additional established salesrooms. The
35 amount of the bond for other applicants required to furnish a bond is twenty-five
36 thousand dollars (\$25,000) for one place of business of the applicant and ten thousand
37 dollars (\$10,000) for each of the applicant's additional places of business.

38 A corporate surety bond shall be approved by the Commissioner as to form and shall
39 be conditioned that the obligor will faithfully conform to and abide by the provisions of
40 this Article and Article 15. A cash bond or fixed value equivalent thereof shall be
41 approved by the Commissioner as to form and terms of deposits as will secure the
42 ultimate beneficiaries of the bond; and such bond shall not be available for delivery to
43 any person contrary to the rules of the Commissioner. Any purchaser of a motor vehicle

1 who shall have suffered any loss or damage by any act of a license holder subject to this
2 subsection that constitutes a violation of this Article or Article 15 shall have the right to
3 institute an action to recover against the license holder and the surety. Every license
4 holder against whom an action is instituted shall notify the Commissioner of the action
5 within 10 days after served with process. A corporate surety bond shall remain in force
6 and effect and may not be canceled by the surety unless the bonded person stops
7 engaging in business or the person's license is denied, suspended, or revoked under G.S.
8 20-294. Such cancellation may be had only upon 30 days' written notice to the
9 Commissioner and shall not affect any liability incurred or accrued prior to the
10 termination of such 30-day period. This subsection does not apply to a license holder
11 who deals only in trailers having an empty weight of 4,000 pounds or less. This
12 subsection does not apply to manufacturers of, or dealers in, mobile or manufactured
13 homes who furnish a corporate surety bond, cash bond, or fixed value equivalent
14 thereof, pursuant to G.S. 143-143.12."

15 **SECTION 3.** G.S. 20-294 (2) reads as rewritten:

16 "(2) Willfully and intentionally failing to comply with this Article, Article
17 15 of this Chapter, or G.S. 20-52.1, 20-75, ~~20-82~~, ~~20-79.1~~, 20-108,
18 20-109, or a rule adopted by the Division under this Article."

19 **SECTION 4.** G.S. 20-294 is amended by adding a new subdivision to read:

20 "(13) Failure to pay a civil penalty imposed under G.S. 20-287."

21 **SECTION 5.** This act becomes effective July 1, 2002, and applies to
22 offenses committed on or after that date.