

# HOUSE BILL No. 5391

February 18, 2016, Introduced by Reps. Darany, Plawecki, Yanez, Rutledge, Schor, Sarah Roberts and Chirkun and referred to the Committee on Regulatory Reform.

A bill to amend 1949 PA 300, entitled  
 "Michigan vehicle code,"  
 by amending section 248 (MCL 257.248), as amended by 2004 PA 495.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1           Sec. 248. (1) The secretary of state shall not grant a dealer  
 2 license under this section until **THE SECRETARY OF STATE COMPLETES**  
 3 an investigation ~~is made~~ of the applicant's qualifications under  
 4 this act, except that this subsection does not apply to license  
 5 ~~renewals.~~ **A LICENSE RENEWAL.** The secretary of state shall ~~make~~  
 6 **CONDUCT** the investigation within 15 days after receiving the  
 7 application and ~~make~~ **SHALL PREPARE** a report on the investigation.

8           (2) An applicant for a new vehicle dealer or a used or  
 9 secondhand vehicle dealer or broker license shall include a

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

1 cancel the bond ~~upon~~ **BY** giving ~~30 days'~~ notice in writing to the  
2 secretary of state **OF THE CANCELLATION AT LEAST 30 DAYS BEFORE THE**  
3 **EFFECTIVE DATE OF THE CANCELLATION** and ~~thereafter~~ is not liable for  
4 a breach of condition occurring after the effective date of the  
5 cancellation.

6 (3) An applicant for a new vehicle dealer or a used or  
7 secondhand vehicle dealer license shall apply for not less than 2  
8 dealer plates ~~as provided by~~ **UNDER** section 245 and shall include  
9 with the application the proper fee ~~as provided by~~ **FOR THOSE PLATES**  
10 **UNDER** section 803.

11 (4) As a condition precedent to the granting of a license, a  
12 dealer shall file with the secretary of state an irrevocable  
13 written stipulation, authenticated by the applicant, stipulating  
14 and agreeing that legal process affecting the dealer, served on the  
15 secretary of state or a deputy of the secretary of state, has the  
16 same effect as if personally served on the dealer. This appointment  
17 remains in force as long as the dealer has any outstanding  
18 liability within this state.

19 (5) A person shall not carry on or conduct the business of  
20 buying, selling, brokering, leasing, negotiating a lease, or  
21 dealing in 5 or more vehicles of a type required to be titled under  
22 this act in a 12-month period unless the person obtains a dealer  
23 license from the secretary of state authorizing the carrying on or  
24 conducting of that business. A person shall not carry on or conduct  
25 the business of buying, selling, brokering, leasing, negotiating a  
26 lease, or dealing in 5 or more distressed, late model vehicles or  
27 salvageable parts to 5 or more of those vehicles in a 12-month

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

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

26 (a) ~~Name of~~**THE NAME OF THE** applicant.

27 (b) ~~Location of~~**THE LOCATION OF THE** applicant's established

1 place of business in this state, together with written verification  
 2 from the appropriate governing or zoning authority that the  
 3 established place of business meets all applicable municipal and  
 4 zoning requirements **AND IS NOT A RESIDENTIAL DWELLING.**

5 (c) The name under which **THE DEALER WILL CONDUCT** business. ~~is~~  
 6 ~~to be conducted.~~

7 (d) If the business is a corporation, the state of  
 8 incorporation.

9 (e) ~~Name,~~ **IF THE BUSINESS IS A SOLE PROPRIETORSHIP OR**  
 10 **PARTNERSHIP, THE NAME,** address, date of birth, and social security  
 11 number of each owner or partner; and, if **THE BUSINESS IS** a  
 12 corporation, the name, address, date of birth, and social security  
 13 number of each of the principal officers.

14 (f) The county in which the **APPLICANT WILL CONDUCT** business,  
 15 ~~is to be conducted and~~ the address of each place of business in  
 16 that county, **AND THE APPLICANT'S CERTIFICATION FOR EACH PLACE OF**  
 17 **BUSINESS IN THAT COUNTY THAT THE PLACE OF BUSINESS IS NOT A**  
 18 **RESIDENTIAL DWELLING. THE SECRETARY OF STATE SHALL NOT GRANT A**  
 19 **DEALER LICENSE UNDER THIS SECTION IF ANY OF THE APPLICANT'S PLACES**  
 20 **OF BUSINESS ARE RESIDENTIAL DWELLINGS.**

21 (g) If **THE DEALER'S BUSINESS IS THE SALE OF** new vehicles, ~~are~~  
 22 ~~to be sold, the make to be handled.~~ **OR MAKES OF THOSE VEHICLES.**  
 23 Each new vehicle dealer shall send with the application for license  
 24 a certification that the dealer holds a bona fide contract to act  
 25 as factory representative, factory distributor, or distributor  
 26 representative to sell at retail ..... (the make of vehicle to  
 27 be sold).

1 (h) A statement of the previous history, record, and  
2 associations of the applicant and of each owner, partner, officer,  
3 ~~and~~**OR** director **OF THE APPLICANT**. The statement shall be sufficient  
4 to establish to the satisfaction of the secretary of state the  
5 business reputation and character of the applicant.

6 (i) A statement showing whether the applicant has previously  
7 applied for a license, the result of the application, and whether  
8 the applicant has ever been the holder of a dealer license that was  
9 revoked or suspended.

10 (j) If the applicant is a corporation or partnership, a  
11 statement showing whether a partner, employee, officer, or director  
12 has been refused a license or has been the holder of a license that  
13 was revoked or suspended.

14 (k) If the application is for a used or secondhand vehicle  
15 parts dealer or an automotive recycler, ~~it shall include~~ all of the  
16 following:

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

19 (ii) Evidence that the applicant maintains or will maintain a  
20 police book and vehicle parts purchase and sales and lease records  
21 as required under this act.

22 (iii) Evidence of worker's compensation insurance coverage for  
23 employees classified under the North American ~~industrial~~**INDUSTRY**  
24 classification system number 42114, entitled "motor vehicle parts  
25 (used) **MERCHANT** wholesalers" or under the ~~national council on~~  
26 ~~compensation insurance~~**NATIONAL COUNCIL ON COMPENSATION INSURANCE**  
27 classification code number 3821, entitled "automobile dismantling",

1 ~~and drivers",~~ if applicable.

2       (1) ~~Certification~~ **A CERTIFICATION** that neither the applicant  
3 nor another person named on the application is acting as the alter  
4 ego of any other person or persons in seeking the license. ~~For the~~  
5 ~~purpose of~~ **AS USED IN** this subdivision, "alter ego" means a person  
6 ~~who~~ **THAT** acts for and on behalf of, or in the place of, another  
7 person for purposes of obtaining a vehicle dealer license.

8       (7) A person shall apply separately for a dealer license for  
9 each county in which business is to be conducted. Before moving 1  
10 or more of his or her places of business or opening an additional  
11 place of business, a dealer shall apply to the secretary of state  
12 for and obtain a supplemental dealer license. ~~, for which a fee~~  
13 ~~shall not be charged.~~ **A THE SECRETARY OF STATE SHALL NOT CHARGE A**  
14 **FEE FOR A** supplemental dealer license **AND shall be issued** **ISSUE A**  
15 **SUPPLEMENTAL DEALER LICENSE** only for a location, including a tent,  
16 temporary stand, or any temporary quarters, that does not meet the  
17 definition of an established place of business, within the county  
18 in which the dealer's established place of business is located. A  
19 dealer license entitles the dealer to conduct the business of  
20 buying, selling, leasing, and dealing in vehicles or salvageable  
21 parts in the county covered by the license. The dealer license  
22 shall also entitle the dealer to conduct at any other licensed  
23 dealer's established place of business in this state only the  
24 business of buying, selling, leasing, or dealing in vehicles at  
25 wholesale.

26       (8) The secretary of state shall classify and differentiate  
27 vehicle dealers according to the type of activity they perform. A

1 dealer shall not engage in activities of a particular  
2 classification as provided in this act unless the dealer is  
3 licensed in that classification. An applicant may apply for a  
4 dealer license in 1 or more of the following classifications:

5 (a) New vehicle dealer.

6 (b) Used or secondhand vehicle dealer.

7 (c) Used or secondhand vehicle parts dealer.

8 (d) Vehicle scrap metal processor.

9 (e) Vehicle salvage pool operator.

10 (f) Distressed vehicle transporter.

11 (g) Broker.

12 (h) Foreign salvage vehicle dealer.

13 (i) Automotive recycler.

14 (j) ~~Beginning April 1, 2005, wholesaler.~~ **WHOLESALER.**

15 (9) A dealer license expires on December 31 of the last year  
16 for which the license is issued. The secretary of state may renew a  
17 dealer license for a period of not more than 4 years ~~upon~~ **IF THE**  
18 **SECRETARY RECEIVES A RENEWAL** application and payment of the fee  
19 required ~~by~~ **UNDER** section 807.

20 (10) A dealer may conduct the business of buying, selling, or  
21 dealing in motor homes, trailer coaches, trailers, or pickup  
22 campers at a recreational vehicle show conducted at a location in  
23 this state without obtaining a separate or supplemental license  
24 under subsection (7) if all of the following apply:

25 (a) The dealer is licensed as a new vehicle dealer or used or  
26 secondhand vehicle dealer.

27 (b) The duration of the recreational vehicle show is not more



1 than 14 days.

2 (c) Not less than 14 days before the beginning date of the  
3 recreational vehicle show, the show producer notifies the secretary  
4 of state, in a manner and form prescribed by the secretary of  
5 state, that the recreational vehicle show is scheduled, the  
6 location, dates, and times of the recreational vehicle show, and  
7 the name, address, and dealer license number of each dealer  
8 participating in the recreational vehicle show.

9 Enacting section 1. This amendatory act takes effect 90 days  
10 after the date it is enacted into law.