

HOUSE BILL NO. HB0225

Motor vehicle franchises-amendments.

Sponsored by: Representative(s) Cohee, Edwards, Esquibel,
Gay, Gilmore and Zwonitzer and Senator(s)
Barrasso, Johnson and Von Flatern

A BILL

for

1 AN ACT relating to motor vehicle franchises; amending
2 definitions; providing for investigation of licensees and
3 temporary permits during investigation; providing for
4 enforcement; requiring dealers to apply for licenses as
5 specified; and providing for an effective date.

6

7 *Be It Enacted by the Legislature of the State of Wyoming:*

8

9 **Section 1.** W.S. 31-16-101(a)(xiv)(A), (B) and
10 (xviii)(intro), 31-16-103(a)(v), (b)(intro), (c) by
11 creating new paragraphs (vii) and (viii), (g)(ii),
12 (h)(intro) and by creating a new subsection (k),
13 31-16-104(a) by creating a new paragraph (vii), 31-16-112,
14 31-16-117(d) and by creating a new subsection (e) and
15 31-16-125(a) are amended to read:

1

2

31-16-101. Definitions.

3

4

(a) As used in this act:

5

6

(xiv) "Principal place of business" means:

7

8

(A) For dealers selling fewer than ~~twenty~~
9 ~~five (25)~~ twelve (12) vehicles ~~per calendar year in any~~
10 twelve (12) consecutive month period, a permanent
11 commercial building located within the state of Wyoming at
12 which the business of a new motor vehicle dealer may be
13 lawfully carried on in accordance with the terms of all
14 applicable building codes, zoning and other land-use
15 regulatory ordinances, and in which building the public may
16 contact the vehicle dealer or his vehicle salesman at all
17 reasonable times, and at which place of business shall be
18 kept and maintained the books, records and files necessary
19 to conduct the business. The business shall be
20 sufficiently identified with an exterior sign permanently
21 affixed to the building or land with letters clearly
22 visible from the highway facing the site and designated to
23 indicate the nature of the business and the landline

1 telephone number of the business. A landline telephone
2 shall be required in the principal place of business;

3
4 (B) For dealers selling ~~twenty five (25)~~
5 twelve (12) or more vehicles ~~per calendar year in any~~
6 twelve (12) consecutive month period, a site upon which a
7 permanent building is located containing adequate
8 facilities to carry on the business of a licensed dealer
9 and used to conduct business as a dealer and not primarily
10 used as, or attached directly to, a residence, with space
11 thereon or contiguous thereto adequate to permit the
12 display of at least five (5) vehicles and sufficiently
13 identified with an exterior sign permanently affixed to the
14 building or land with letters clearly visible from the
15 highway facing the site and designated to indicate the
16 nature of the business. The facilities, sign and space for
17 display shall be in compliance with all applicable zoning
18 ordinances prescribed by the municipality or county in
19 which they are located and in which building the public may
20 contact the vehicle dealer or the dealer's salespersons
21 during the declared business hours, and at which place of
22 business shall be kept and maintained the books, records
23 and files as required by W.S. 31-11-107(a) and (b)
24 necessary to conduct the business. A landline telephone

1 shall be required in the principal place of business with a
2 published phone number listed to the principal place of
3 business;

4
5 (xviii) "Vehicle dealer" or "dealer" means any
6 person engaged in the business of selling or exchanging
7 vehicles or who buys and sells, or exchanges retail three
8 (3) or more vehicles or six (6) or more new vehicles with a
9 gross vehicle weight rating over twenty-six thousand
10 (26,000) pounds in any ~~one (1) calendar year~~ twelve (12)
11 consecutive month period, but does not include any
12 insurance company, finance company, public utility company
13 or person coming into possession of any vehicle as an
14 incident to its regular business who sells that vehicle, or
15 who sells that vehicle under any contractual rights it may
16 have with respect thereto. Vehicle dealers are classified
17 as follows:

18
19 **31-16-103. Licenses; applications; issuance,**
20 **suspension and revocation; change in ownership; rulemaking.**

21
22 (a) An applicant for a license required under this
23 act shall, before commencing business and annually

1 thereafter submit an application to the department in a
2 form prescribed by the department containing the following:

3

4 (v) Any other information the department may
5 reasonably require, including financial statements of new
6 applicants, past or present judicial, civil or
7 administrative dispositions of criminal, civil or
8 administrative actions relating to the conduct of the
9 business if currently licensed or a new applicant,
10 telephone numbers, sales and use tax numbers for the
11 business and declared business hours. Any new applicant for
12 a license issued under this act, including all officers of
13 a corporation or members of a limited liability company or
14 limited partnership, shall provide fingerprints and other
15 information necessary for a state and national criminal
16 history record background check and release of information
17 as provided in W.S. 7-19-106(k)(ii) and consent to the
18 release of any criminal history information to the
19 department;

20

21 (b) Pending determination by the department that the
22 applicant has met the requirements under this act, it may
23 issue a temporary license to any applicant. A temporary
24 license shall not exceed a period of ninety (90) days while

1 the department is completing its investigation and
2 determination of all facts relative to the qualifications
3 of the applicant for the license. The temporary license
4 terminates when the applicant's license has been issued or
5 refused. When the department determines the applicant has
6 complied with all licensing requirements, the department
7 shall issue a license or renewal to an applicant upon
8 submission of a complete application to the department
9 indicating the applicant is qualified and will operate from
10 a principal place of business if a dealer or from an
11 established place of business if a Wyoming based
12 manufacturer, and upon filing of a bond and payment of a
13 license fee of twenty-five dollars (\$25.00) for dealers
14 selling fewer than twelve (12) vehicles ~~per calendar year~~
15 in any twelve (12) consecutive month period and one hundred
16 dollars (\$100.00) for dealers selling twelve (12) or more
17 vehicles ~~per calendar year~~ in any twelve (12) consecutive
18 month period as follows:

19

20 (c) The department may deny, suspend, revoke or
21 refuse to renew a license issued under this act if it finds
22 the person, applicant, vehicle dealer, salesperson, agent
23 or Wyoming based manufacturer:

24

1 (vii) Has been convicted of a felony involving
2 fraud, conspiracy to commit fraud, forgery, embezzlement,
3 obtaining money under false pretenses, larceny or extortion
4 within the immediate ten (10) year period prior to the date
5 of license application;

6
7 (viii) Failed to furnish any requested
8 information to the department.

9
10 (g) A Wyoming licensed dealer may establish and
11 operate an additional place of business or operate in an
12 organized motor vehicle show as a vehicle dealer if:

13
14 (ii) Before operating in an organized motor
15 vehicle show, a licensed dealer shall notify the department
16 in writing not later than fourteen (14) days prior to the
17 date of the show and obtain a letter of authorization from
18 the department to operate in an organized motor vehicle
19 show within the county of the principal place of business,
20 or within the dealer's relevant market area as defined by
21 W.S. 31-16-101(a)(xv). A vehicle dealer may operate in not
22 more than four (4) shows in any calendar year and each show
23 shall not exceed seven (7) consecutive days. The letter of
24 authorization to operate in an organized motor vehicle show

1 shall be displayed in a location at the motor vehicle show
2 where any peace officer or designated member of the
3 department can examine it. As used in this subsection,
4 "organized motor vehicle show" means an exhibition and sale
5 by one (1) or more licensed motor vehicle dealers in a
6 private or public assembly, facility or area.

7
8 (h) An applicant for a license to operate as a dealer
9 or Wyoming based manufacturer shall also file with the
10 department a bond in the sum of ~~ten thousand dollars~~
11 ~~(\$10,000.00)~~ twenty thousand dollars (\$20,000.00) with a
12 corporate surety duly licensed to do business within this
13 state. The bond shall:

14
15 (k) If the director has reasonable cause to believe
16 that a licensee or other person has violated or is
17 violating any provision of this act or any other law
18 related to the conduct of a vehicle dealer or has violated
19 or is violating any rule or order adopted or issued by the
20 department pursuant to law, in addition to any other
21 remedies existing in this act, the director may bring and
22 maintain, in the name and on behalf of the department, an
23 action in the proper court against a licensee or other
24 person to restrain or enjoin the licensee or other person

1 from continuing the violation. In the action, the court
2 shall proceed as in other actions for injunction.

3
4 **31-16-104. Classes of licenses; expiration.**

5
6 (a) Licenses issued under this act shall be the
7 following classes:

8
9 (vii) Temporary ninety (90) day vehicle dealer
10 permit allows an applicant to operate a business under this
11 act for a period of ninety (90) days while the department
12 is completing an investigation for any purpose relative to
13 the business. The temporary permit terminates when the
14 applicant's license has been issued or refused but in no
15 case shall the temporary permit exceed ninety (90) days;

16
17 **31-16-112. Penalty.**

18
19 (a) Any person, Wyoming based manufacturer, vehicle
20 dealer, salesperson or agent who violates this act or any
21 rule or regulation promulgated under this act is guilty of
22 a misdemeanor punishable by a fine of not more than seven
23 hundred fifty dollars (\$750.00), imprisonment for not more
24 than six (6) months, or both.

1

2 (b) The highway patrol division and other enforcement
3 officers as the department designates are charged with the
4 duty of policing and enforcing the provisions of this act.
5 The designated enforcement officers have authority to issue
6 citations for violations of any of the provisions of this
7 act.

8

9 **31-16-117. Payment for delivery preparation and**
10 **warranty service.**

11

12 (d) All claims made by new vehicle dealers pursuant
13 to this section for labor and parts shall be paid or
14 credited within thirty (30) days following their approval.
15 The manufacturer may audit claims and charge the dealer for
16 unsubstantiated, or incorrect, ~~false or fraudulent~~ claims
17 for a period of ~~two (2) years~~ one (1) year following
18 payment except where the manufacturer reasonably suspects
19 fraud. A manufacturer that reasonably suspects fraud may
20 audit claims for a period of four (4) years and charge the
21 dealer for fraudulent claims as otherwise provided by law.

22 All claims shall be either approved or disapproved within
23 thirty (30) days after their receipt, on forms or by
24 computerized communication and in the manner specified by

1 the manufacturer including a computerized communications
2 system. Any claim not specifically disapproved in writing
3 or through electronic communication within thirty (30) days
4 after receipt is construed to be approved and payment shall
5 be made within thirty (30) days.

6
7 (e) This section shall apply to each manufacturer or
8 distributor of motor vehicles, medium duty or heavy duty
9 truck components or engines who provides integral parts of
10 vehicles or major components by selling directly to dealers
11 or enters into a contract with a motor vehicle, medium duty
12 or heavy duty truck dealer which authorizes the dealer to
13 perform warranty or other services on products produced or
14 distributed.

15
16 **31-16-125. Demo, full use, and Wyoming based**
17 **manufacturer plates.**

18
19 (a) Any licensed dealer who sells or exchanges retail
20 twelve (12) or more vehicles in any ~~one (1) calendar year~~
21 may twelve (12) consecutive month period shall apply to the
22 county treasurer in ~~each~~the county in which the business
23 ~~will be conducted~~is licensed for demo and full use license
24 plates. After presentation of a current dealer's license

1 and payment of fees, the treasurer shall assign the
2 requested number of plates to an approved applicant for use
3 in the business located in the county. The treasurer shall
4 not assign plates to a dealer in excess of the number
5 approved by the department.

6

7 **Section 2.** W.S. 31-16-104(b) is repealed.

8

9 **Section 3.** This act is effective July 1, 2005.

10

11

(END)