

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 a

10 permanent commercial building located within the state of

11 Wyoming at which the business of a new motor vehicle dealer

12 may be lawfully carried on in accordance with the terms of

13 all applicable building codes, zoning and other land-use

14 regulatory ordinances, and in which building the public may

15 contact the vehicle dealer or his vehicle salesman at all

16 reasonable times, and at which place of business shall be

17 kept and maintained the books, records and files necessary

18 to conduct the business. The business shall be19 sufficiently identified with an exterior sign permanently20 affixed to the building or land with letters clearly21 visible from the highway facing the site and designated to22 indicate the nature of the business and the landline23 telephone number of the business. A landline telephone24 shall be required in the principal place of business;

1
2 (B) For dealers selling ~~twenty-five (25)~~
3 twelve (12) or more vehicles per calendar year a site upon
4 which a permanent building is located containing adequate
5 facilities to carry on the business of a licensed dealer
6 and used to conduct business as a dealer and not primarily
7 used as, or attached directly to, a residence, with space
8 thereon or contiguous thereto adequate to permit the
9 display of at least five (5) vehicles and sufficiently
10 identified with an exterior sign permanently affixed to the
11 building or land with letters clearly visible from the
12 highway facing the site and designated to indicate the
13 nature of the business. The facilities, sign and space for
14 display shall be in compliance with all applicable zoning
15 ordinances prescribed by the municipality or county in
16 which they are located and in which building the public may
17 contact the vehicle dealer or the dealer's salespersons
18 during the declared business hours, and at which place of
19 business shall be kept and maintained the books, records
20 and files as required by W.S. 31-11-107(a) and (b)
21 necessary to conduct the business. A landline telephone
22 shall be required in the principal place of business with a
23 published phone number listed to the principal place of
24 business;

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

15
16 **31-16-103. Licenses; applications; issuance,**
17 **suspension and revocation; change in ownership; rulemaking.**

18
19 (a) An applicant for a license required under this
20 act shall, before commencing business and annually
21 thereafter submit an application to the department in a
22 form prescribed by the department containing the following:

23

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

17
18 (b) Pending determination by the department that the
19 applicant has met the requirements under this act, it may
20 issue a temporary license to any applicant. A temporary
21 license shall not exceed a period of ninety (90) days while
22 the department is completing its investigation and
23 determination of all facts relative to the qualifications
24 of the applicant for the license. The temporary license

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

14

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

19

20 (vii) Has been convicted of a felony;

21

22 (viii) Failed to furnish any requested
23 information to the department.

24

1 (g) A Wyoming licensed dealer may establish and
2 operate an additional place of business or operate in an
3 organized motor vehicle show as a vehicle dealer if:

4
5 (ii) Before operating in an organized motor
6 vehicle show, a licensed dealer shall notify the department
7 in writing not later than fourteen (14) days prior to the
8 date of the show and obtain a letter of authorization from
9 the department to operate in an organized motor vehicle
10 show within the county of the principal place of business,
11 or within the dealer's relevant market area as defined by
12 W.S. 31-16-101(a)(xv). A vehicle dealer may operate in not
13 more than four (4) shows in any calendar year and each show
14 shall not exceed seven (7) consecutive days. The letter of
15 authorization to operate in an organized motor vehicle show
16 shall be displayed in a location at the motor vehicle show
17 where any peace officer or designated member of the
18 department can examine it. As used in this subsection,
19 "organized motor vehicle show" means an exhibition and sale
20 by one (1) or more licensed motor vehicle dealers in a
21 private or public assembly, facility or area.

22

23 (h) An applicant for a license to operate as a dealer
24 or Wyoming based manufacturer shall also file with the

1 department a bond in the sum of ~~ten thousand dollars~~
2 ~~(\$10,000.00)~~ twenty thousand dollars (\$20,000.00) with a
3 corporate surety duly licensed to do business within this
4 state. The bond shall:

5
6 (k) If the director has reasonable cause to believe
7 that a licensee or other person has violated or is
8 violating any provision of this act or any other law
9 related to the conduct of a vehicle dealer or has violated
10 or is violating any rule or order adopted or issued by the
11 department pursuant to law, in addition to any other
12 remedies existing in this act, the director may bring and
13 maintain, in the name and on behalf of the department, an
14 action in the proper court against a licensee or other
15 person to restrain or enjoin the licensee or other person
16 from continuing the violation. In the action, the court
17 shall proceed as in other actions for injunction.

18
19 **31-16-104. Classes of licenses; expiration.**

20
21 (a) Licenses issued under this act shall be the
22 following classes:

1 (vii) Temporary ninety (90) day vehicle dealer
2 permit allows an applicant to operate a business under this
3 act for a period of ninety (90) days while the department
4 is completing an investigation for any purpose relative to
5 the business. The temporary permit terminates when the
6 applicant's license has been issued or refused but in no
7 case shall the temporary permit exceed ninety (90) days;

8
9 **31-16-112. Penalty.**

10
11 (a) Any person, Wyoming based manufacturer, vehicle
12 dealer, salesperson or agent who violates this act or any
13 rule or regulation promulgated under this act is guilty of
14 a misdemeanor punishable by a fine of not more than seven
15 hundred fifty dollars (\$750.00), imprisonment for not more
16 than six (6) months, or both.

17
18 (b) The highway patrol division and other enforcement
19 officers as the department designates are charged with the
20 duty of policing and enforcing the provisions of this act.
21 The designated enforcement officers have authority to issue
22 citations for violations of any of the provisions of this
23 act.

1 **31-16-117. Payment for delivery preparation and**
2 **warranty service.**

3
4 (d) All claims made by new vehicle dealers pursuant
5 to this section for labor and parts shall be paid or
6 credited within thirty (30) days following their approval.
7 The manufacturer may audit claims and charge the dealer for
8 unsubstantiated, incorrect, false or fraudulent claims for
9 a period of ~~two (2) years~~ one (1) year following payment.

10 All claims shall be either approved or disapproved within
11 thirty (30) days after their receipt, on forms or by
12 computerized communication and in the manner specified by
13 the manufacturer including a computerized communications
14 system. Any claim not specifically disapproved in writing
15 or through electronic communication within thirty (30) days
16 after receipt is construed to be approved and payment shall
17 be made within thirty (30) days.

18
19 (e) This section shall apply to each manufacturer or
20 distributor of motor vehicles, medium duty or heavy duty
21 truck components or engines who provides integral parts of
22 vehicles or major components by selling directly to dealers
23 or enters into a contract with a motor vehicle, medium duty
24 or heavy duty truck dealer which authorizes the dealer to

1 perform warranty or other services on products produced or
2 distributed.

3
4 **31-16-125. Demo, full use, and Wyoming based**
5 **manufacturer plates.**

6
7 (a) Any licensed dealer who sells or exchanges retail
8 twelve (12) or more vehicles in any one (1) calendar year
9 ~~may~~ shall apply to the county treasurer in ~~each~~ the county
10 in which the business ~~will be conducted~~ is licensed for
11 demo and full use license plates. After presentation of a
12 current dealer's license and payment of fees, the treasurer
13 shall assign the requested number of plates to an approved
14 applicant for use in the business located in the county.
15 The treasurer shall not assign plates to a dealer in excess
16 of the number approved by the department.

17
18 **Section 2.** W.S. 31-16-104(b) is repealed.

19
20 **Section 3.** This act is effective July 1, 2005.

21
22 (END)