

ENROLLED ACT NO. 95, HOUSE OF REPRESENTATIVES

FIFTY-EIGHTH LEGISLATURE OF THE STATE OF WYOMING
2005 GENERAL SESSION

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

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

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

31-16-101. Definitions.

(a) As used in this act:

(xiv) "Principal place of business" means:

(A) For dealers selling fewer than ~~twenty-five (25)~~ twelve (12) vehicles ~~per calendar year in any~~ twelve (12) consecutive month period, a permanent commercial building located within the state of Wyoming at which the business of a new motor vehicle dealer may be lawfully carried on in accordance with the terms of all applicable building codes, zoning and other land-use regulatory ordinances, and in which building the public may contact the vehicle dealer or his vehicle salesman at all reasonable times, and at which place of business shall be kept and maintained the books, records and files necessary to conduct the business. The business shall be sufficiently identified with an exterior sign permanently

ORIGINAL HOUSE
BILL NO. 0225

ENROLLED ACT NO. 95, HOUSE OF REPRESENTATIVES

FIFTY-EIGHTH LEGISLATURE OF THE STATE OF WYOMING
2005 GENERAL SESSION

affixed to the building or land with letters clearly visible from the highway facing the site and designated to indicate the nature of the business and the landline telephone number of the business. A landline telephone shall be required in the principal place of business;

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

(xviii) "Vehicle dealer" or "dealer" means any person engaged in the business of selling or exchanging vehicles or who buys and sells, or exchanges retail three (3) or more vehicles or six (6) or more new vehicles with a gross vehicle weight rating over twenty-six thousand

ORIGINAL HOUSE
BILL NO. 0225

ENROLLED ACT NO. 95, HOUSE OF REPRESENTATIVES

FIFTY-EIGHTH LEGISLATURE OF THE STATE OF WYOMING
2005 GENERAL SESSION

(26,000) pounds in any ~~one (1) calendar year~~ twelve (12) consecutive month period, but does not include any insurance company, finance company, public utility company or person coming into possession of any vehicle as an incident to its regular business who sells that vehicle, or who sells that vehicle under any contractual rights it may have with respect thereto. Vehicle dealers are classified as follows:

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

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

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

(b) Pending determination by the department that the applicant has met the requirements under this act, it may issue a temporary license to any applicant. A temporary

ORIGINAL HOUSE
BILL NO. 0225

ENROLLED ACT NO. 95, HOUSE OF REPRESENTATIVES

FIFTY-EIGHTH LEGISLATURE OF THE STATE OF WYOMING
2005 GENERAL SESSION

license shall not exceed a period of ninety (90) days while the department is completing its investigation and determination of all facts relative to the qualifications of the applicant for the license. The temporary license terminates when the applicant's license has been issued or refused. When the department determines the applicant has complied with all licensing requirements, the department shall issue a license or renewal to an applicant upon submission of a complete application to the department indicating the applicant is qualified and will operate from a principal place of business if a dealer or from an established place of business if a Wyoming based manufacturer, and upon filing of a bond and payment of a license fee of twenty-five dollars (\$25.00) for dealers selling fewer than twelve (12) vehicles ~~per calendar year~~ in any twelve (12) consecutive month period and one hundred dollars (\$100.00) for dealers selling twelve (12) or more vehicles ~~per calendar year~~ in any twelve (12) consecutive month period as follows:

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

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

(viii) Has been convicted of a felony under W.S. 6-2-302;

(ix) Failed to furnish any requested information to the department.

ORIGINAL HOUSE
BILL NO. 0225

ENROLLED ACT NO. 95, HOUSE OF REPRESENTATIVES

FIFTY-EIGHTH LEGISLATURE OF THE STATE OF WYOMING
2005 GENERAL SESSION

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

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

(h) An applicant for a license to operate as a dealer or Wyoming based manufacturer shall also file with the department a bond in the sum of ~~ten thousand dollars (\$10,000.00)~~ twenty-five thousand dollars (\$25,000.00) with a corporate surety duly licensed to do business within this state. The bond shall:

(k) If the director has reasonable cause to believe that a licensee or other person has violated or is violating any provision of this act or any other law related to the conduct of a vehicle dealer or has violated or is violating any rule or order adopted or issued by the department pursuant to law, in addition to any other

ORIGINAL HOUSE
BILL NO. 0225

ENROLLED ACT NO. 95, HOUSE OF REPRESENTATIVES

FIFTY-EIGHTH LEGISLATURE OF THE STATE OF WYOMING
2005 GENERAL SESSION

remedies existing in this act, the director may bring and maintain, in the name and on behalf of the department, an action in the proper court against a licensee or other person to restrain or enjoin the licensee or other person from continuing the violation. In the action, the court shall proceed as in other actions for injunction.

31-16-104. Classes of licenses; expiration.

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

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

31-16-112. Penalty.

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

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

ORIGINAL HOUSE
BILL NO. 0225

ENROLLED ACT NO. 95, HOUSE OF REPRESENTATIVES

FIFTY-EIGHTH LEGISLATURE OF THE STATE OF WYOMING
2005 GENERAL SESSION

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

(d) All claims made by new vehicle dealers pursuant to this section for labor and parts shall be paid or credited within thirty (30) days following their approval. The manufacturer may audit claims and charge the dealer for unsubstantiated, or incorrect, ~~false or fraudulent~~ claims for a period of ~~two (2) years~~ one (1) year following payment except where the manufacturer reasonably suspects fraud. A manufacturer that reasonably suspects fraud may audit claims for a period of four (4) years and charge the dealer for fraudulent claims as otherwise provided by law. All claims shall be either approved or disapproved within thirty (30) days after their receipt, on forms or by computerized communication and in the manner specified by the manufacturer including a computerized communications system. Any claim not specifically disapproved in writing or through electronic communication within thirty (30) days after receipt is construed to be approved and payment shall be made within thirty (30) days.

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

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

(a) Any licensed dealer who sells or exchanges retail twelve (12) or more vehicles in any ~~one (1) calendar year~~

ORIGINAL HOUSE
BILL NO. 0225

ENROLLED ACT NO. 95, HOUSE OF REPRESENTATIVES

FIFTY-EIGHTH LEGISLATURE OF THE STATE OF WYOMING
2005 GENERAL SESSION

~~may twelve (12) consecutive month period shall~~ apply to the county treasurer in ~~each~~the county in which the business ~~will be conducted~~is licensed for demo and full use license plates. After presentation of a current dealer's license and payment of fees, the treasurer shall assign the requested number of plates to an approved applicant for use in the business located in the county. The treasurer shall not assign plates to a dealer in excess of the number approved by the department.

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

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

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the House.

Chief Clerk