

1 HB393
2 198537-3
3 By Representative Wood (R)
4 RFD: State Government
5 First Read: 09-APR-19

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8 SYNOPSIS: Under existing law, a person engaging in the
9 business of acting as a new motor vehicle dealer,
10 used motor vehicle dealer, motor vehicle rebuilder,
11 or motor vehicle wholesaler is required to obtain a
12 regulatory license from the Department of Revenue.

13 This bill would provide for the issuance of
14 a master regulatory dealer license in lieu of the
15 issuance of separate licenses for the sale,
16 wholesale, or rebuilding of motor vehicles and
17 provide for an adjustment to the license fee.

18 Under existing law, a person who willfully
19 acquires motor vehicle dealer license plates in
20 violation of the law is subject to a civil penalty.

21 This bill would increase that penalty.

22 This bill would provide for the issuance of
23 a wholesale motor vehicle auction license and would
24 prohibit any person from engaging in the business
25 of a motor vehicle wholesale auction without the
26 license.

1 This bill would provide a criminal penalty
2 for a violation of the provisions relating to the
3 wholesale motor vehicle auction license.

4 Amendment 621 of the Constitution of Alabama
5 of 1901, now appearing as Section 111.05 of the
6 Official Recompilation of the Constitution of
7 Alabama of 1901, as amended, prohibits a general
8 law whose purpose or effect would be to require a
9 new or increased expenditure of local funds from
10 becoming effective with regard to a local
11 governmental entity without enactment by a 2/3 vote
12 unless: it comes within one of a number of
13 specified exceptions; it is approved by the
14 affected entity; or the Legislature appropriates
15 funds, or provides a local source of revenue, to
16 the entity for the purpose.

17 The purpose or effect of this bill would be
18 to require a new or increased expenditure of local
19 funds within the meaning of the amendment. However,
20 the bill does not require approval of a local
21 governmental entity or enactment by a 2/3 vote to
22 become effective because it comes within one of the
23 specified exceptions contained in the amendment.

24
25 A BILL
26 TO BE ENTITLED
27 AN ACT

1
2 Relating to motor vehicle dealer licensing; to amend
3 Sections 40-12-264, 40-12-390, 40-12-391, 40-12-392,
4 40-12-393, 40-12-395, and 40-12-398, to create a master
5 regulatory dealer license and provide for an adjustment to the
6 license fee; to increase the civil penalty authorized for a
7 violation; to add Article 10, commencing with Section
8 40-12-445, to Chapter 12 of Title 40, Code of Alabama 1975, to
9 create a wholesale motor vehicle auction license; to provide a
10 criminal penalty for a violation; and in connection therewith
11 would have as its purpose or effect the requirement of a new
12 or increased expenditure of local funds within the meaning of
13 Amendment 621 of the Constitution of Alabama of 1901, now
14 appearing as Section 111.05 of the Official Recompilation of
15 the Constitution of Alabama of 1901, as amended.

16 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

17 Section 1. Sections 40-12-264, 40-12-390, 40-12-391,
18 40-12-392, 40-12-393, 40-12-395, and 40-12-398, Code of
19 Alabama 1975, are amended to read as follows:

20 "§40-12-264.

21 "(a) Any person, including a motor vehicle dealer,
22 acquiring a new or used motor vehicle may be granted a grace
23 period of 20 calendar days from date of acquisition to procure
24 a license tag or plate.

25 "(b) ~~Notwithstanding~~ Section 32-6-65, a new or
26 used motor vehicle dealer who has a current regulatory license
27 required under this article and a dealer license as required

1 by Section 40-12-51 or Section 40-12-169 ~~and Section 40-12-391~~
2 may purchase dealer license plates from the ~~county license~~
3 ~~plate issuing official of the county in which the business is~~
4 ~~located~~ department upon presentation of the current licenses
5 ~~required under Section 40-12-391 and either Section 40-12-51~~
6 ~~or Section 40-12-169 from this state~~ and payment of the fee
7 for a private passenger automobile as provided in subdivision
8 (1) of Section 40-12-242 and subsection (a) of Section
9 40-12-273 per dealer plate. An additional ~~\$1.75~~ two dollar
10 (\$2) issuance fee shall also be collected, ~~which shall be~~
11 ~~deposited into the county general fund to be used exclusively~~
12 ~~for the operation of the issuing official's office~~ by the
13 department. A new or used motor vehicle dealer that has a
14 current regulatory license required under this article and a
15 dealer license as required by ~~Sections~~ Section 40-12-62 ~~and~~
16 ~~40-12-391~~ may purchase motorcycle dealers' license plates from
17 the ~~county in which the business is located~~ department upon
18 presentation of current licenses ~~as provided in both Sections~~
19 ~~40-12-62 and 40-12-391 from this state~~ and payment of the
20 motorcycle registration fee as provided by subdivision (2) of
21 Section 40-12-242 and subsection (c) of Section 40-12-273 per
22 license plate. ~~The additional \$1.75~~ An additional two dollar
23 (\$2) issuance fee shall also be collected, ~~which shall be~~
24 ~~deposited into the county general fund to be used exclusively~~
25 ~~for the operation of the issuing official's office~~ by the
26 department. Dealer license plates and motorcycle dealer
27 license plates may only be used on motor vehicles owned by the

1 dealership and being held in the inventory of the dealer. The
2 number of dealer license plates is limited as follows:

3 "(1) A licensed new motor vehicle dealer may
4 purchase a maximum combined total of ~~25~~ 35 dealer and
5 motorcycle dealer license plates unless the dealer qualifies
6 for additional dealer license plates as provided for in
7 subdivision (3).

8 "(2) A licensed used motor vehicle dealer may
9 purchase a maximum combined total of ~~10~~ five dealer and
10 motorcycle dealer license plates unless the dealer qualifies
11 for additional dealer license plates as provided for in
12 subdivision (3).

13 "(3) Any licensed new or used motor vehicle dealer
14 who completes applications for certificates of title involving
15 title transfers for ~~1,500~~ 300 or more motor vehicles in this
16 state during the previous dealer regulatory license year may
17 purchase a combined total of not more than 25 additional
18 dealer and motorcycle dealer license plates.

19 "(c) Dealer license plates may be used by
20 prospective purchasers, owners, partners, corporate officers,
21 and employees of the dealership and only on vehicles owned by
22 the dealership and being held in the inventory of the dealer.
23 Dealer license plates shall not be used on vehicles that are
24 utilized by the dealership as rental or lease vehicles, tow
25 trucks, service trucks or vans, ~~and other service vehicles~~ or
26 for other commercial purposes. A prospective purchaser shall
27 be limited to 72 hours of use of dealer license plates. All

1 vehicles on temporary loan from a motor vehicle dealer to a
2 customer whose vehicle is being serviced or repaired by the
3 dealer or to a high school for the purpose of student driver
4 education shall be considered dealer demonstrator vehicles and
5 dealer license plates may be used on these vehicles provided a
6 fee is not charged by the dealer for the use.

7 "(d) Licensed new and used motor vehicle dealers
8 selling trucks or truck tractors with more than two axles on
9 the power unit or a gross weight exceeding 26,000 pounds shall
10 allow prospective purchasers to use dealer license plates for
11 one payload trip only, and that use shall not exceed 72 hours.
12 The dealer shall provide the prospective purchaser a permit
13 fully describing the vehicle by make, model, year, and vehicle
14 identification number. The permit shall contain the complete
15 name and address of the dealership and of the prospective
16 customer and shall clearly indicate the date and time the
17 permit was issued. The permit and dealer license plate shall
18 be issued only for demonstration purposes, and shall not be
19 issued by the dealer when a vehicle is loaned or rented to an
20 operator for any other purpose.

21 "(e) A licensed new or used motor vehicle dealer, ~~or~~
22 ~~wholesaler may purchase a maximum of 10~~ upon proper
23 application, may be issued a temporary seven-day dealer
24 transit license plates plate to be used on motor vehicles
25 being offered for sale to licensed motor vehicle dealers. The
26 temporary dealer transit license plate shall be issued in a
27 manner as prescribed by the department. ~~Dealer~~ Temporary

1 seven-day dealer transit license plates may be used by the new
2 or used motor vehicle dealer ~~or a wholesaler~~ to transport
3 vehicles within the inventory of the dealer ~~or wholesaler~~.

4 ~~Dealer~~ The temporary seven-day dealer transit license plates
5 shall not be used on service vehicles, including which include
6 tow trucks, and rental, or and lease vehicles, or used for
7 other commercial purposes. The fees for the seven-day dealer
8 transit license plates shall be the same as the fees provided
9 in subsection (b) for dealer license plates five dollars (\$5).

10 "(f) A motor vehicle wholesale auction, licensed
11 under Section 40-12-446, upon proper application, may be
12 issued a seven-day auction transit license plate to be used to
13 transport vehicles to and from the auction. The seven-day
14 auction transit license plate shall be issued in a manner as
15 prescribed by the department. The seven-day auction transit
16 license plate may not be used on service vehicles, which
17 include tow trucks and rental and lease vehicles, or used for
18 other commercial purposes. The fee for a seven-day auction
19 transit license plate shall be five dollars (\$5).

20 ~~"(f)~~ (g) A licensed motor vehicle ~~rebuilder~~ dealer
21 may purchase a ~~maximum of 10~~ temporary seven-day dealer
22 transit license plates to be used in accordance with
23 subsection (a) of Section 32-8-87.

24 ~~"(g)~~ (h) Any Notwithstanding Section 32-6-65, any
25 manufacturer of private passenger automobiles, motorcycles,
26 trucks, truck tractors, or trailers who has manufacturing
27 facilities located in this state and has a current

1 manufacturer's license as required by Section 40-12-87, may
2 procure manufacturer license plates from the ~~county license~~
3 ~~plate issuing official of the county in which the business is~~
4 ~~located~~ department upon payment of the private passenger
5 automobile or motorcycle fees per plate, as provided in
6 subdivision (1) or (2) of Section 40-12-242 and subsection (a)
7 or (c) of Section 40-12-273. ~~The additional one dollar~~
8 ~~seventy-five cents (\$1.75)~~ An additional two dollar (\$2)
9 ~~issuance fee shall also be collected, which shall be deposited~~
10 ~~into the county general fund to be used exclusively for the~~
11 ~~operation of the issuing official's office~~ by the department.
12 The word "manufacturer" shall appear on the license plates.
13 The license plates may be used for transporting and testing
14 new motor vehicles owned by the manufacturer.

15 ~~"(h)~~ (i) The proceeds of the fees levied in this
16 section shall not be subject to proration. The registration
17 fees collected pursuant to this section for dealer license
18 plates and manufacturer license plates shall be distributed by
19 ~~the county license plate issuing officials~~ department in the
20 same manner as fees for private passenger automobiles and
21 motorcycles pursuant to Sections 40-12-269, 40-12-270, and
22 40-12-274. The five dollar (\$5) fee for the issuance of the
23 seven-day dealer transit plates and the seven-day auction
24 transit plates and the additional two dollar (\$2) issuance fee
25 for dealer license plates and manufacturer license plates
26 shall be retained by the department to offset the cost of
27 administering this article. The five dollar (\$5) fee and the

1 two dollar (\$2) issuance fee, in addition to all other
2 appropriations, shall be continuously appropriated to the
3 department. No fees provided in this section may be refunded.

4 ~~"(i)~~ (j) No motor vehicle ad valorem taxes,
5 registration fees imposed by local law, or issuance fees
6 imposed by local law shall be collected by the ~~county official~~
7 ~~who issues~~ department when issuing license plates pursuant to
8 this section. In addition, motor vehicle delinquency penalties
9 and interest fees shall not be applicable when issuing license
10 plates pursuant to this section.

11 "(k) No motor vehicle ad valorem taxes or sales tax
12 shall be collected by the local issuing official when a
13 standard plate is issued for a motor vehicle held in inventory
14 by a licensed new or used motor vehicle dealer.

15 ~~"(j)~~ (l) Any person to whom license plates are
16 issued under this section, upon forfeiture or revocation of
17 his or her license under Section 40-12-390, et seq., or upon
18 discontinuing business, shall surrender to the ~~issuing~~
19 ~~official~~ department all license plates issued within 10
20 calendar days from the date of forfeiture or revocation of
21 license or discontinuing business.

22 ~~"(k)~~ (m) Motor vehicle dealer, motorcycle dealer,
23 manufacturer, auction transit, or dealer transit license
24 plates may not be used in lieu of regular issued license
25 plates as a means of avoiding the registration and ad valorem
26 tax requirements of this chapter. Any person who willfully
27 ~~violates this section of law shall be subject to a Department~~

1 ~~of Revenue penalty~~ misuses or unlawfully acquires a license
2 plate issued under this section in a manner not authorized by
3 this section and rules adopted pursuant to this section shall
4 be subject to a penalty assessed by the department in the
5 amount of ~~one hundred dollars (\$100)~~ two hundred dollars
6 (\$200) for the first violation and five hundred dollars (\$500)
7 for each subsequent violation.

8 "~~(l)~~ (n) A licensed new or used motor vehicle dealer
9 shall register any motor vehicle and purchase an Alabama
10 license plate of the proper classification for any motor
11 vehicle withdrawn from the inventory of the dealer.

12 "~~(m)~~ (o) A motor vehicle dealer, motorcycle dealer,
13 ~~dealer transit,~~ or manufacturer license plate may be replaced
14 in accordance with Section 40-12-265.

15 "~~(n)~~ (p) Any person who makes willful misstatements
16 or files documents with erroneous information in order to
17 obtain motor vehicle dealer, motorcycle dealer, dealer
18 transit, auction transit, or manufacturer license plates shall
19 be guilty of a Class A misdemeanor subject to criminal
20 penalties as provided by law, and may be assessed a civil
21 penalty of one thousand dollars (\$1,000) by the department.

22 "~~(o)~~ (q) A new or used motor vehicle dealer, motor
23 vehicle rebuilder, or motor vehicle wholesaler, licensed
24 pursuant to Section 40-12-51, 40-12-62, or 40-12-169 and
25 Section 40-12-391, or a manufacturer of private passenger
26 automobiles, motorcycles, trucks, truck tractors, or trailers,
27 ~~licensed pursuant to this section,~~ that is licensed pursuant

1 to Section 40-12-87, is prohibited from renewing his or her
2 licenses if the new or used motor vehicle dealer, motor
3 vehicle rebuilder, motor vehicle wholesaler, or manufacturer
4 fails to pay any outstanding liabilities resulting from the
5 assessment of penalties provided in this section.

6 "§40-12-390.

7 The following words and phrases, when used in this
8 article, shall have the following meanings:

9 "(1) COMMISSIONER. The state Commissioner of
10 Revenue.

11 "(2) DEPARTMENT. The Department of Revenue.

12 "~~(2)~~ (3) DISTRIBUTOR. Any person, ~~firm, or~~
13 ~~corporation~~ engaged in the business of selling or distributing
14 new motor vehicles to new motor vehicle dealers.

15 "(4) FACILITATOR. Any person or his or her designee
16 who facilitates an off-site sale licensed under Section
17 40-12-395. The term may include the owner of the property
18 where the off-site sale is being conducted.

19 "~~(3)~~ (5) MANUFACTURER. Any person, ~~firm, or~~
20 ~~corporation~~ engaged in the business of manufacturing or
21 assembling new and unused motor vehicles.

22 "(6) MASTER DEALER LICENSE. The license issued by
23 the department pursuant to this article.

24 "~~(4)~~ (7) MOTOR VEHICLE. Any motor vehicle as defined
25 in Section 40-12-240, but the term shall not include any
26 trailer not required to have a certificate of title.

1 "~~(5)~~ (8) MOTOR VEHICLE REBUILDER. Any person, ~~firm,~~
2 ~~or corporation~~ engaged in the business of making or causing to
3 be made extensive repairs, replacements, or combination of
4 different motor vehicles to the extent of extinguishing the
5 identity of the original vehicle to the extent that the
6 finished motor vehicle may be assigned a new identification to
7 be issued by the ~~Department of Revenue~~ department under ~~the~~
8 ~~provisions of~~ Chapter 8 of Title 32. The term also includes
9 any person, ~~firm, or corporation~~ engaged in the business of
10 refurbishing, repairing, or replacing damaged parts of motor
11 vehicles for the purpose of preparing the vehicle for resale
12 under the same identification and identity as the vehicle had
13 before the refurbishing.

14 "~~(6)~~ (9) MOTOR VEHICLE WHOLESALER. Any person, ~~firm,~~
15 ~~or corporation~~ engaged in the business of buying, selling, or
16 exchanging motor vehicles at wholesale to motor vehicle
17 dealers, as defined in this article, and not to the public.

18 "~~(7)~~ (10) NEW MOTOR VEHICLE. A motor vehicle, other
19 than a used motor vehicle, the legal title of which has never
20 been transferred by a manufacturer, distributor, or new motor
21 vehicle dealer to an ultimate purchaser.

22 "~~(8)~~ (11) NEW MOTOR VEHICLE DEALER. Any person, ~~firm,~~
23 ~~or corporation~~ which holds a bona fide contract or
24 franchise in this state in effect with a manufacturer or
25 distributor of new motor vehicles and is engaged in the
26 business of selling, advertising, or negotiating the sale of
27 new motor vehicles or new and used motor vehicles, and the

1 duly licensed new motor vehicle dealers shall be the sole and
2 only persons, ~~firms, or corporations~~ entitled, other than in
3 connection with the rental or leasing of new motor vehicles by
4 persons engaged in the business of motor vehicle rental and
5 leasing, to sell and publicly or otherwise solicit and
6 advertise for sale new motor vehicles. The term also includes
7 a motor vehicle rebuilder and motor vehicle wholesaler as
8 defined in this article.

9 ~~"(9)~~ (12) PERMANENT LOCATION. A building or
10 structure from which sales of motor vehicles are conducted. ~~A~~
11 ~~house used as a residence by the business owner, a partner, or~~
12 ~~a corporate officer from which sales of motor vehicles are~~
13 ~~conducted may also be a permanent location.~~ The building or
14 structure must be owned, rented, or leased and must be used as
15 an office and a place to receive mail, keep records, and
16 conduct routine business, to include ~~an operable telephone~~
17 ~~listed with the telephone company~~ utilities under the name of
18 the licensed business.

19 "(13) PERSON. As defined in Section 40-12-240.

20 ~~"(10)~~ (14) USED MOTOR VEHICLE. A motor vehicle, the
21 legal title of which has been transferred by a manufacturer,
22 distributor, or new motor vehicle dealer to an ultimate
23 purchaser.

24 ~~"(11)~~ (15) USED MOTOR VEHICLE DEALER. Any person,
25 ~~firm, or corporation~~ engaged in the business of buying,
26 selling, exchanging, advertising, or negotiating the sale of
27 five or more motor vehicles, not previously titled or

1 registered in the person's name, at retail during a calendar
2 ~~year, whether or not the motor vehicles are owned by such~~
3 ~~person, firm, or corporation,~~ or in offering or displaying
4 motor vehicles for sale at retail to the public. The term
5 "selling" or "sale" shall include lease-purchase transactions.
6 The term "used motor vehicle dealer" does not include banks,
7 credit unions, licensees of the State Banking Department, and
8 finance companies which acquire motor vehicles as an incident
9 to their regular business and does not include motor vehicle
10 rental and leasing companies. The term also includes a motor
11 vehicle rebuilder and motor vehicle wholesaler as defined in
12 this article.

13 ~~"(12)~~ (16) ULTIMATE PURCHASER. With respect to a new
14 motor vehicle, the first person, ~~firm, or corporation,~~ other
15 than a new motor vehicle dealer purchasing in his or her
16 capacity as a new motor vehicle dealer, who in good faith
17 purchases the new motor vehicle for purposes other than
18 resale. ~~Ultimate purchaser shall~~ The term does not include a
19 ~~person, firm, or corporation~~ who purchases a vehicle for
20 purposes of altering or remanufacturing the motor vehicle for
21 future resale.

22 "§40-12-391.

23 "(a) No person shall be licensed as ~~an automobile a~~
24 motor vehicle dealer under ~~the provisions of~~ Section 40-12-51,
25 40-12-62, or 40-12-169, nor shall any person engage in
26 business as, serve in the capacity of, or act as a new motor
27 vehicle dealer, used motor vehicle dealer, motor vehicle

1 rebuilder, or motor vehicle wholesaler in this state, without
2 first obtaining a master dealer license as provided in this
3 article and, if a new motor vehicle dealer, or a used motor
4 vehicle dealer, a state sales tax number.

5 "(b) No person, ~~firm, or corporation~~ shall engage in
6 the business of buying, selling, exchanging, advertising, or
7 negotiating the sale of new motor vehicles unless he or she
8 holds a valid master dealer license as a new motor vehicle
9 dealer in this state for the make or makes of new motor
10 vehicles being bought, sold, exchanged, advertised, or
11 negotiated or unless a bona fide employee or agent of the
12 licensee.

13 "(c) No person, other than a motor vehicle dealer
14 licensed under this article, may sell a motor vehicle without
15 being currently recorded as the owner on the certificate of
16 title or designated as the attorney-in-fact acting on behalf
17 of the titled owner. If a person is not in compliance with
18 this subsection, any state or local licensing official or law
19 enforcement officer may impound the motor vehicle until the
20 person provides proper proof of ownership as the currently
21 recorded owner on the certificate of title or as the
22 attorney-in-fact acting on behalf of the titled owner, or as
23 otherwise prescribed by law. This subsection does not apply to
24 abandoned motor vehicles sold under Chapter 13 of Title 32.

25 "~~(c)~~ (d) Notwithstanding any law of this state
26 providing otherwise, neither a new motor vehicle dealer nor a

1 used motor vehicle dealer nor any person engaged in the
2 business of motor vehicle rental and leasing:

3 "(1) With respect to a credit sale transaction, is
4 required to be licensed under Chapter 19 of Title 5 in order
5 to pay any amount necessary to satisfy a lease on, security
6 interest in, or lien on any motor vehicle either returned to
7 that dealer or to the lessor or traded in by the purchaser in
8 connection with the credit sale transaction, and to include
9 that amount as part of the amount to be paid by the purchaser
10 under the credit sale transaction; or

11 "(2) With respect to a lease transaction, is subject
12 to Chapter 19 of Title 5 or otherwise deemed to have made a
13 loan or credit sale by virtue of paying any amount necessary
14 to satisfy a lease on, security interest in, or lien on any
15 motor vehicle either returned to that dealer or to the
16 original lessor or traded in by the lessee in connection with
17 the lease transaction, and including that amount as part of
18 the amount to be paid by the lessee under the lease
19 transaction.

20 "§40-12-392.

21 "(a) The application for a master dealer license
22 shall be in such form and shall be subject to such rules and
23 regulations as may be prescribed by the commissioner. An
24 application shall be verified by the oath or affirmation of
25 the applicant. If the applicant is a sole proprietorship, the
26 application shall contain the name and residence of the
27 applicant. If the applicant is a partnership, the application

1 shall contain the names and residences of each partner. If the
2 applicant is a corporation, the application shall contain the
3 names and residences of the officers and directors. If the
4 applicant is a new motor vehicle dealer, or used motor vehicle
5 dealer in this state, the application shall contain the state
6 sales tax number assigned to the applicant. The application
7 shall enumerate the number of new and used vehicles sold
8 during the previous calendar year; describe the exact location
9 of the place of business, and shall state: That the location
10 is a permanent one; that the location affords sufficient space
11 upon and within which to adequately display one or more motor
12 vehicles offered for sale and that an appropriate sign
13 designates the location as being the place of business of a
14 motor vehicle dealer; that it is a suitable place from which
15 the applicant can in good faith carry on such business and
16 keep and maintain books and records necessary to conduct
17 business, which shall be available at all reasonable hours for
18 inspection by the commissioner. The application shall state
19 that the applicant is either (i) franchised by a manufacturer
20 of motor vehicles, and, if so, the name of the manufacturer
21 and line make that the applicant is authorized to represent,
22 or (ii) a used motor vehicle dealer, rebuilder, or wholesaler.
23 Upon making application, the person applying shall pay an
24 application fee ~~of~~ as prescribed by the commissioner of
25 twenty-five dollars (\$25) through September 30, 2020.
26 Effective October 1, 2020, the application fee shall be
27 calculated pursuant to Section 3 of this act to the

1 ~~commissioner~~ and shall be in addition to other fees required
2 by law. The commissioner may cause an investigation to be made
3 and upon being satisfied that the facts set forth in the
4 application are true, shall issue a master dealer license
5 certificate to the applicant, which shall entitle the licensee
6 to operate as a motor vehicle dealer, rebuilder, ~~or~~ and
7 wholesaler for one year from the first day of October of each
8 year. If the commissioner, upon investigation, determines that
9 a master dealer license should not be issued, the commissioner
10 may deny the license and the applicant may appeal the denial
11 to the Alabama Tax Tribunal as allowed in Chapter 2A of this
12 title.

13 "(b) Every master dealer license issued under this
14 article shall be valid for one year from the first day of
15 October of each year and shall be renewed on October 1 each
16 year. Thirty days of grace for obtaining the license shall be
17 allowed without penalty. Thereafter, penalties prescribed
18 under this article for delinquent licenses shall be imposed.

19 ~~"(b) A motor vehicle rebuilder or a motor vehicle~~
20 ~~wholesaler who is not a new or used motor vehicle dealer shall~~
21 ~~not be required to maintain a sign designating the location,~~
22 ~~and may maintain books, records, and files of his or her~~
23 ~~business at his or her home; provided, that books, records,~~
24 ~~and files shall be accessible and available for inspection by~~
25 ~~the commissioner, inspectors, or employees during normal~~
26 ~~business hours on usual business days. The location may be~~
27 ~~adjacent to his or her residence.~~

1 "~~(c) A motor vehicle rebuilder or motor vehicle~~
2 ~~wholesaler may not sell any motor vehicles or component parts~~
3 ~~to anyone other than a licensed motor vehicle dealer, motor~~
4 ~~vehicle wholesaler, or motor vehicle rebuilder, or as salvage.~~

5 "~~(d)~~ (c) New and used motor vehicle dealers, motor
6 vehicle rebuilders, and motor vehicle wholesalers shall be
7 required to maintain blanket motor vehicle liability insurance
8 coverage on vehicles operated on the public streets and
9 highways of this state, including vehicles in dealership
10 inventory. Evidence of liability insurance for business and
11 inventory vehicles shall be filed with the application for
12 license, and the application for license shall be denied if
13 proof of liability insurance satisfactory to the commissioner
14 is not provided. A licensee who fails to maintain a blanket
15 motor vehicle liability insurance policy during the licensing
16 period may be assessed a civil penalty of up to five thousand
17 dollars (\$5,000). The penalty may be assessed against the bond
18 as provided for in Section 40-12-398.

19 "(d) A person who is subject to the licensing
20 requirements of this article, but willfully fails to acquire
21 the license, shall be subject to a penalty of five hundred
22 dollars (\$500) for the first violation and one thousand
23 dollars (\$1,000) for the second or subsequent violation.

24 "§40-12-393.

25 "The commissioner shall deposit the application fees
26 collected under the provisions of this article ~~in~~ into the
27 State Treasury, which shall be appropriated as follows:

1 "(1) A minimum of twenty-five dollars (\$25) or 10
2 percent, whichever is greater, of the application fee shall be
3 appropriated to the General Fund of the state.

4 "(2) The remaining amount shall be continuously
5 appropriated to the department for the inspection, issuance,
6 and enforcement of the licensing requirements under this
7 article.

8 "§40-12-395.

9 "(a) A person licensed under this article shall
10 obtain a supplemental license for each additional place of
11 business, in a manner as prescribed by the commissioner and
12 upon payment of an additional application fee of five dollars
13 (\$5) for each additional location. The signage and other
14 requirements of Section 40-12-392 shall apply to each
15 additional place of business. Only one licensed dealer shall
16 operate at the same place of business.

17 "(b) Notwithstanding the requirement that sales of
18 new and used motor vehicles shall be made only from the
19 permanent location of the new or used motor vehicle dealer,
20 such dealers may conduct sales of new and used motor vehicles
21 from locations off-site of their permanent locations on the
22 following conditions:

23 "(1) The off-site sales events shall not exceed
24 three per dealer per license year with each sale not to exceed
25 10 consecutive calendar days in duration. Off-site sales of
26 new motor vehicles by new motor vehicle dealers shall be
27 conducted only at a location within the new motor vehicle

1 dealer's area of responsibility as defined in the contract or
2 franchise agreement between the new motor vehicle dealer and
3 its manufacturer or distributor. Off-site sales of used motor
4 vehicles shall be conducted only at a location in the county
5 or city where the new or used motor vehicle dealer maintains a
6 permanent location.

7 "(2) The off-site sale need not be conducted in a
8 building or permanent structure, but the ~~motor vehicle dealer~~
9 facilitator shall display a temporary sign at the location
10 where the off-site sale is conducted identifying the name of
11 the ~~motor vehicle dealer~~ facilitator who is conducting the
12 sale as stated on the license required by ~~this section~~
13 subdivision (3) and the name of the motor vehicle dealers who
14 are participating in the sale as stated on the license
15 required by subdivision (4). All advertisements and other
16 notices of the sale must be conducted in the name of the
17 ~~licensee~~ facilitator.

18 "(3)a. At least 10 calendar days before conducting
19 each off-site sale, the facilitator of the off-site sale shall
20 obtain a master off-site sale license by making a license
21 application to the commissioner and paying an application fee
22 of twenty-five dollars (\$25) for each off-site sale. On the
23 application, the facilitator shall list each participating
24 motor vehicle dealer and the participating motor vehicle
25 dealer's off-site sale license number, as required in
26 subdivision (4). The off-site sale license required in
27 subdivision (4) is not required if the facilitator and motor

1 vehicle dealer are the same entity. Each motor vehicle dealer
2 participating in the off-site sale shall obtain an off-site
3 license required by subdivision (4) and provide the license to
4 the facilitator prior to the facilitator making the
5 application.

6 "b. The failure of a facilitator to disclose
7 participating motor vehicle dealers shall subject the
8 facilitator to the following penalties:

9 "1. A facilitator that is a bonded agent of the
10 state and in violation of this section shall be subject to a
11 statutory notice of non-compliance. Subsequent violations may
12 result in the suspension or revocation of designated agent
13 status pursuant to Section 32-8-3 and rules adopted under that
14 section.

15 "2. A facilitator that is not a bonded agent of the
16 state that is in violation of this section shall be subject to
17 the penalty provisions as provided in subsection (d) of
18 Section 40-12-392.

19 "~~(3)~~(4) At least ~~one calendar day~~ 10 calendar days
20 before conducting each off-site sale, the motor vehicle dealer
21 shall obtain an off-site sale license by making license
22 application to the commissioner and paying an application fee
23 of twenty-five dollars (\$25) for each off-site sale to be
24 conducted. If more than one motor vehicle dealer participates
25 in the same off-site sale, each motor vehicle dealer
26 participating in the sale shall obtain an off-site sale
27 license from the commissioner.

1 "(c) In addition to the foregoing, the motor vehicle
2 dealer shall obtain from the judge of probate or other county
3 licensing official a county license for the off-site location
4 by paying the county license tax imposed pursuant to ~~Section~~
5 Sections 40-12-51, 40-12-62, and 40-12-169, and shall provide
6 to the commissioner proof of payment of the license upon
7 application for each off-site sale. If more than one motor
8 vehicle dealer participates in the same off-site sale, each
9 motor vehicle dealer participating in the sale shall obtain
10 from the judge of probate or other county licensing official a
11 county license for the off-site location by paying the county
12 license tax imposed pursuant to ~~Section~~ Sections 40-12-51,
13 40-12-62, and 40-12-169.

14 "(d) For purposes of this section, a new motor
15 vehicle dealer temporarily displaying new vehicles at a
16 shopping mall, auto show, or other location solely for
17 advertising or display purposes and from which location sales
18 are not conducted, shall not be deemed to be conducting an
19 off-site sale and no off-site sales license shall be required.

20 "(e) For purposes of this section, an off-site sales
21 license shall not be required for wholesale sales between
22 licensed motor vehicle dealers or for retail sales by new or
23 used motor vehicle dealers conducted at the permanent location
24 of an auction company which is licensed as a used motor
25 vehicle dealer or motor vehicle wholesale auction.

26 "§40-12-398.

1 "Before any master dealer license ~~shall~~ may be
2 issued to a new motor vehicle dealer, used motor vehicle
3 dealer, motor vehicle rebuilder, or motor vehicle wholesaler,
4 the applicant shall deliver to the commissioner a good and
5 sufficient surety bond, executed by the applicant as principal
6 and by a corporate surety company qualified to do business in
7 the state as surety, in the sum of ~~twenty-five thousand~~
8 ~~dollars (\$25,000)~~ not less than fifty thousand dollars
9 (\$50,000) or an amount as prescribed by the department. Such
10 bond shall be in a form to be approved by the commissioner,
11 and shall be conditioned that the motor vehicle dealer, motor
12 vehicle rebuilder, or motor vehicle wholesaler shall comply
13 with the conditions of any contract made by such dealer in
14 connection with the sale or exchange of any motor vehicle and
15 shall not violate any of the provisions of law relating to the
16 conduct of the business for which he is licensed. Such bond
17 shall be payable to the commissioner and to his successors in
18 office, and shall be in favor of any person who shall recover
19 any judgment for any loss as a result of any violation of the
20 conditions hereinabove contained. The bond shall serve in lieu
21 of the bond provided for in subsection (b) of Section 32-8-34
22 and, in addition to all other conditions, shall also be
23 conditioned upon their performance of their duties as a
24 designated agent under Chapter 8 of Title 32. The penalty
25 provisions provided under this article, in addition to the tax
26 liability incurred under Chapter 23 of this title on the sale
27 of a motor vehicle, may be assessed against the bond."

1 Section 2. (a) Beginning October 1, 2020, the
2 application fee prescribed in Section 40-12-392, Code of
3 Alabama 1975, shall be equal to the average of the annual
4 dealer license fees, as of January 1, 2020, of the contiguous
5 states to Alabama and shall be rounded to the nearest
6 twenty-five dollars (\$25). The Department of Revenue may
7 adjust these fees once every five years thereafter using the
8 same calculation; provided, the adjusted fee may not exceed
9 the application fee provided under Section 40-12-413, Code of
10 Alabama 1975.

11 (b) On or after October 1, 2022, the Department of
12 Revenue, by rule, may establish a bi-annual license in lieu of
13 the annual license provided under Section 40-12-391, Code of
14 Alabama 1975. The application fee for the bi-annual license
15 may not exceed double the amount charged for the application
16 fee or for the annual license.

17 Section 3. Article 10, commencing with Section
18 40-12-445, is added to Chapter 12 of Title 40, Code of Alabama
19 1975, to read as follows:

20 §40-12-445.

21 As used in this article, the following words shall
22 have the following meanings:

23 (1) AUTOMOTIVE DISMANTLER AND PARTS RECYCLER. As
24 defined in Section 40-12-410.

25 (2) COMMISSIONER. The Commissioner of Revenue.

26 (3) DEPARTMENT. The Department of Revenue.

27 (4) MOTOR VEHICLE. As defined in Section 40-12-390.

1 (5) MOTOR VEHICLE REBUILDER. As defined in Section
2 40-12-390.

3 (6) NEW MOTOR VEHICLE DEALER. As defined in Section
4 40-12-390.

5 (7) PERSON. As defined in Section 40-12-240.

6 (8) PLACE OF BUSINESS. The place owned or leased and
7 regularly occupied by a person for the principal purpose of
8 engaging in the business of a wholesale motor vehicle auction
9 from which the wholesale of motor vehicles is conducted and
10 where the books and records required for the conduct of
11 business are maintained and kept.

12 (9) USED MOTOR VEHICLE DEALER. As defined in Section
13 40-12-390.

14 (10) MOTOR VEHICLE WHOLESALE AUCTION. Any person
15 engaged in the business of buying, selling, exchanging, or
16 facilitating the sale of motor vehicles at wholesale to new or
17 used motor vehicle dealers and automotive dismantler and parts
18 recyclers and not to the public.

19 §40-12-446.

20 (a) A person may not engage in the business of a
21 motor vehicle wholesale auction unless the person is licensed
22 under this article by the department.

23 (b) A person desiring to engage in the business of a
24 motor vehicle wholesale auction shall apply to the department
25 on a form prescribed by the department. The form shall contain
26 all of the following:

27 (1) The legal name of the applicant.

1 (2) The street address of the applicant's principal
2 place of business.

3 (3) The street address of the applicant's
4 headquarters, if different from the applicant's principal
5 place of business.

6 (4) Any additional information as may be required by
7 the department.

8 (c) A motor vehicle wholesale auction shall be
9 required to maintain books, records, and files that shall be
10 accessible and available for inspection by the department
11 during normal business hours on usual business days. The
12 department, by rule, shall establish electronic reporting
13 requirements regarding the sale of motor vehicles at the motor
14 vehicle wholesale auction.

15 (d) Every licensee under this article shall keep
16 books and records in a form prescribed by the department. The
17 books and records shall include purchases, sales or exchanges,
18 and receipts of every motor vehicle purchased or sold or held
19 for sale at the location of the licensee. In addition, the
20 books and records shall include a description of each motor
21 vehicle, which shall include the vehicle identification number
22 of each motor vehicle, together with the name and address of
23 any seller or purchaser of the motor vehicle.

24 (e) A motor vehicle wholesale auction may not sell a
25 motor vehicle or component parts to anyone other than a
26 licensed new or used motor vehicle dealer, motor vehicle
27 wholesaler, or motor vehicle rebuilder.

1 §40-12-447.

2 (a) An application for a license as a motor vehicle
3 wholesale auction shall be accompanied by a state privilege
4 license fee equal to the fee levied under Section 40-12-392
5 and any additional fee for issuing licenses as may be
6 otherwise prescribed by law.

7 (b) A privilege license issued to a motor vehicle
8 wholesale auction under this article shall be valid for one
9 year from the first day of October and shall be renewed on
10 October 1 of each year. Thirty days of grace for obtaining the
11 license shall be allowed without penalty. Thereafter,
12 penalties prescribed under this article for delinquent
13 licenses shall be imposed.

14 §40-12-448.

15 (a) Except as provided in subsection (b), before
16 being licensed under this article, a person shall demonstrate
17 proof of responsibility by depositing with the commissioner a
18 continuing surety bond in the amount prescribed under Section
19 40-12-398 from a company authorized to do business in the
20 state. The bond must be approved by the commissioner, payable
21 to the state, and conditioned upon the faithful observance of
22 all the provisions of this article. The bond must also
23 indemnify any person who suffers a loss by reason of failure
24 to observe the provisions of this article.

25 (b) The department, by rule, may permit a surety
26 bond obtained under Section 40-12-398 to serve in lieu of the
27 surety bond prescribed in subsection (a).

1 §40-12-449.

2 (a) Subject to the appeal provisions allowed under
3 Chapter 2A of this title, the commissioner may suspend or
4 revoke a license issued for the willful and intentional
5 failure of the licensee to comply with this article.

6 (b) A license may be revoked or a license
7 application may be denied by the department for any of the
8 following reasons:

9 (1) Fraud practiced or any material misstatement in
10 the license application.

11 (2) Change of condition after a license is granted
12 or the failure to maintain qualification for the license.

13 (3) Skipping title assignment: Accepting open
14 assignment of title or bill of sale for a motor vehicle which
15 is not completed by identifying the licensee as the purchaser
16 or assignee of the motor vehicle.

17 (4) Having no established place of business.

18 (5) Failing to properly keep and maintain records.

19 (6) Knowingly dealing in stolen motor vehicles,
20 parts, or accessories.

21 (7) Willful failure to comply with this article or
22 any rule adopted under this article.

23 (8) Disconnecting, turning back, or resetting the
24 odometer of a motor vehicle in violation of state or federal
25 law.

26 (9) Filing a materially erroneous or fraudulent tax
27 return with the department.

1 (10) Revocation as a designated agent, as provided
2 in Section 32-8-34, for failing to faithfully perform his or
3 her duties as a designated agent.

4 (c) Subject to the notice and appeal provisions
5 under Chapter 2A of this title, the commissioner may do any of
6 the following:

7 (1) Refuse to license a person who does not meet the
8 requirements of this article.

9 (2) Cancel the license of a licensee for willful
10 failure to continue to meet the requirements of this article.

11 (3) Refuse, cancel, or revoke a license for a state
12 or federal felony conviction involving theft or for a
13 violation of Chapter 8 of Title 32, relating to the Uniform
14 Certificate of Title and Antitheft Act, or a similar law of
15 another state by an applicant; a licensee; a partner of an
16 applicant; or, in the case of a corporate applicant or
17 licensee, a director or manager of the licensee.

18 §40-12-450.

19 A person who violates this article is guilty of a
20 Class A misdemeanor. In addition, the department may assess
21 against the person a civil penalty of up to five thousand
22 dollars (\$5,000). The penalty may be assessed against the bond
23 as provided for in Section 40-12-398.

24 Section 4. Although this bill would have as its
25 purpose or effect the requirement of a new or increased
26 expenditure of local funds, the bill is excluded from further
27 requirements and application under Amendment 621, now

1 appearing as Section 111.05 of the Official ReCompilation of
2 the Constitution of Alabama of 1901, as amended, because the
3 bill defines a new crime or amends the definition of an
4 existing crime.

5 Section 5. Section 2 of this act shall become
6 effective on the first day of the third month following its
7 passage and approval by the Governor, or its otherwise
8 becoming law. The remaining sections of this act shall become
9 effective October 1, 2020, following its passage and approval
10 by the Governor, or its otherwise becoming law.