

1 HB400  
2 157701-5  
3 By Representative Johnson (R)  
4 RFD: Commerce and Small Business  
5 First Read: 04-FEB-14

1  
2 ENROLLED, An Act,

3           To amend Sections 40-12-264, 40-12-390, 40-12-391,  
4 40-12-392, 40-12-395, 40-12-396, 40-12-398, and 40-12-400,  
5 Code of Alabama 1975, relating to motor vehicle dealer license  
6 plates and regulatory license requirements; to require a  
7 uniform motor vehicle dealer license for all motor vehicle  
8 dealers except dealers selling only utility trailers or  
9 non-titled trailers; to establish a uniform license fee and  
10 eliminate the requirement that new and used motor vehicle  
11 dealers obtain multiple license categories to conduct  
12 business; to reduce the time period required to obtain an  
13 off-site sales event license; to standardize the surety bond  
14 requirement for all licensees and eliminate the need for a  
15 separate designated agent surety bond; to establish  
16 prerequisites for obtaining dealer and motorcycle dealer  
17 license plates; to further provide for the penalty for  
18 violations; and in connection therewith would have as its  
19 purpose or effect the requirement of a new or increased  
20 expenditure of local funds within the meaning of Amendment 621  
21 of the Constitution of Alabama of 1901, now appearing as  
22 Section 111.05 of the Official Recompilation of the  
23 Constitution of Alabama of 1901, as amended.

24 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1           Section 1. Section 40-12-264, Code of Alabama 1975,  
2 is amended to read as follows:

3           "§40-12-264.

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

8           "(b) A new or used motor vehicle dealer who has a  
9 current dealer license as required by ~~Sections~~ Section  
10 40-12-51 and 40-12-391 or ~~Section~~ 40-12-169, and Section  
11 40-12-391 may purchase dealer license plates from the county  
12 license plate issuing official of the county in which the  
13 business is located upon presentation of ~~a current dealer~~  
14 ~~license~~ the licenses required under Section 40-12-391 and  
15 either Section 40-12-51 or Section 40-12-169 from this state  
16 and payment of the fee for a private passenger automobile as  
17 provided in subdivision (1) of Section 40-12-242 and  
18 subsection (a) of Section 40-12-273 per dealer plate. An  
19 additional \$1.75 issuance fee shall also be collected, which  
20 shall be deposited into the county general fund to be used  
21 exclusively for the operation of the issuing official's  
22 office. ~~Motorcycle dealers licensed pursuant to Section~~  
23 ~~40-12-51 or 40-12-62~~ A new or used motor vehicle dealer that  
24 has a current dealer license as required by Sections 40-12-62  
25 and 40-12-391 may purchase motorcycle dealers' license plates

1 from the county in which the business is located upon  
2 presentation of ~~a current license~~ licenses as provided in both  
3 Sections 40-12-62 and 40-12-391 from this state and payment of  
4 the motorcycle registration fee as provided by subdivision (2)  
5 of Section 40-12-242 and subsection (c) of Section 40-12-273  
6 per license plate. The additional \$1.75 issuance fee shall  
7 also be collected, which shall be deposited into the county  
8 general fund to be used exclusively for the operation of the  
9 issuing official's office. Dealer license plates and  
10 motorcycle dealer license plates may only be used on motor  
11 vehicles owned by the dealership and being held in the  
12 inventory of the dealer. The number of dealer license plates  
13 is limited as follows:

14 "(1) A licensed new motor vehicle dealer may  
15 purchase a maximum combined total of 25 dealer and motorcycle  
16 dealer license plates unless the dealer qualifies for  
17 additional dealer license plates as provided for in  
18 subdivision ~~(4)~~ (3).

19 "(2) A licensed used motor vehicle dealer may  
20 purchase a maximum combined total of 10 dealer and motorcycle  
21 dealer license plates unless the dealer qualifies for  
22 additional dealer license plates as provided for in  
23 subdivision ~~(4)~~ (3).

24 ~~"(3) A licensed motorcycle dealer may purchase a~~  
25 ~~maximum of 10 motorcycle dealer license plates.~~

1           "~~(4)~~(3) Any new or used motor vehicle dealer who  
2 completes applications for certificates of title involving  
3 title transfers for 1,500 or more motor vehicles in this state  
4 during the previous dealer regulatory license year may  
5 purchase a combined total of not more than 25 additional  
6 dealer and motorcycle dealer license plates.

7           "(c) Dealer license plates may be used by  
8 prospective purchasers, owners, partners, corporate officers,  
9 and employees of the dealership and only on vehicles owned by  
10 the dealership and being held in the inventory of the dealer.  
11 Dealer license plates shall not be used on vehicles that are  
12 utilized by the dealership as rental or lease vehicles, tow  
13 trucks, service trucks or vans, and other service vehicles. A  
14 prospective purchaser shall be limited to 72 hours of use of  
15 dealer license plates. All vehicles on temporary loan from a  
16 motor vehicle dealer to a customer whose vehicle is being  
17 serviced or repaired by the dealer or to a high school for the  
18 purpose of student driver education shall be considered dealer  
19 demonstrator vehicles and dealer license plates may be used on  
20 these vehicles provided a fee is not charged by the dealer for  
21 the use.

22           "(d) Licensed new and used motor vehicle dealers  
23 selling trucks or truck tractors with more than two axles on  
24 the power unit or a gross weight exceeding 26,000 pounds shall  
25 allow prospective purchasers to use dealer license plates for

1 one payload trip only, and that use shall not exceed 72 hours.  
2 The dealer shall provide the prospective purchaser a permit  
3 fully describing the vehicle by make, model, year, and vehicle  
4 identification number. The permit shall contain the complete  
5 name and address of the dealership and of the prospective  
6 customer and shall clearly indicate the date and time the  
7 permit was issued. The permit and dealer license plate shall  
8 be issued only for demonstration purposes, and shall not be  
9 issued by the dealer when a vehicle is loaned or rented to an  
10 operator for any other purpose.

11 "(e) A licensed new or used motor vehicle dealer or  
12 wholesaler may purchase a maximum of 10 dealer transit license  
13 plates to be used on motor vehicles being offered for sale to  
14 licensed motor vehicle dealers. Dealer transit license plates  
15 may be used by the new or used motor vehicle dealer or a  
16 wholesaler to transport vehicles within the inventory of the  
17 dealer or wholesaler. Dealer transit license plates shall not  
18 be used on service vehicles including tow trucks, rental, or  
19 lease vehicles. The fees for dealer transit license plates  
20 shall be the same as the fees provided in subsection (b) for  
21 dealer license plates.

22 "(f) A licensed motor vehicle rebuilder ~~or motor~~  
23 ~~vehicle reconditioner~~ may purchase a maximum of 10 dealer  
24 transit license plates to be used in accordance with  
25 subsection (a) of Section 32-8-87.

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

16           "(h) The proceeds of the fees levied in this section  
17 shall not be subject to proration. The fees collected pursuant  
18 to this section shall be distributed by the county license  
19 plate issuing officials in the same manner as fees for private  
20 passenger automobiles and motorcycles pursuant to Sections  
21 40-12-269, 40-12-270, and 40-12-274. No fees provided in this  
22 section may be refunded.

23           "(i) No motor vehicle ad valorem taxes, registration  
24 fees imposed by local law, or issuance fees imposed by local  
25 law shall be collected by the county official who issues

1 license plates pursuant to this section. In addition, motor  
2 vehicle delinquency penalties and interest fees shall not be  
3 applicable when issuing license plates pursuant to this  
4 section.

5 "(j) Any person to whom license plates are issued  
6 under this section, upon forfeiture or revocation of his or  
7 her license under Section 40-12-390, et seq., or upon  
8 discontinuing business, shall surrender to the issuing  
9 official all license plates issued within 10 calendar days  
10 from the date of forfeiture or revocation of license or  
11 discontinuing business.

12 "(k) Motor vehicle dealer, motorcycle dealer,  
13 manufacturer, or dealer transit license plates may not be used  
14 in lieu of regular issued license plates as a means of  
15 avoiding the registration and ad valorem tax requirements of  
16 this chapter. Any person who willfully violates this section  
17 of law shall be subject to a Department of Revenue penalty of  
18 one hundred dollars (\$100) for the first violation and five  
19 hundred dollars (\$500) for each subsequent violation.

20 "(l) A licensed new or used motor vehicle dealer  
21 shall register any motor vehicle and purchase an Alabama  
22 license plate of the proper classification for any motor  
23 vehicle withdrawn from the inventory of the dealer.



1           "(m) A motor vehicle dealer, motorcycle dealer,  
2 dealer transit, or manufacturer license plate may be replaced  
3 in accordance with Section 40-12-265.

4           "(n) Any person who makes willful misstatements or  
5 files documents with erroneous information in order to obtain  
6 motor vehicle dealer, motorcycle dealer, dealer transit, or  
7 manufacturer license plates shall be guilty of a Class A  
8 misdemeanor subject to criminal penalties as provided by law,  
9 and may be assessed a civil penalty of one thousand dollars  
10 (\$1,000) by the department.

11           "(o) A new or used motor vehicle dealer, ~~motor~~  
12 ~~vehicle reconditioner,~~ motor vehicle rebuilder, or motor  
13 vehicle wholesaler, licensed pursuant to ~~Sections~~ Section  
14 40-12-51, 40-12-62, or 40-12-169, ~~or~~ and Section 40-12-391; ~~a~~  
15 ~~motorcycle dealer, licensed pursuant to Section 40-12-62;~~ or a  
16 manufacturer of private passenger automobiles, motorcycles,  
17 trucks, truck tractors, or trailers, licensed pursuant to this  
18 section, is prohibited from renewing his or her ~~license~~  
19 licenses if the new or used motor vehicle dealer, ~~motor~~  
20 ~~vehicle reconditioner,~~ motor vehicle rebuilder, motor vehicle  
21 wholesaler, ~~motorcycle dealer,~~ or manufacturer fails to pay  
22 any outstanding liabilities resulting from the assessment of  
23 penalties provided in this section."

1           Section 2. Sections 40-12-390, 40-12-391, 40-12-392,  
2           40-12-395, 40-12-396, 40-12-398, and 40-12-400, Code of  
3           Alabama 1975, are amended to read as follows:

4           "§40-12-390.

5           "The following words and phrases, when used in this  
6           article, shall have the following meanings:

7           "(1) COMMISSIONER. The state Commissioner of  
8           Revenue.

9           "(2) DISTRIBUTOR. Any person, firm, or corporation  
10          engaged in the business of selling or distributing new motor  
11          vehicles to new motor vehicle dealers.

12          "(3) MANUFACTURER. Any person, firm, or corporation  
13          engaged in the business of manufacturing or assembling new and  
14          unused motor vehicles.

15          "(4) MOTOR VEHICLE. Any motor vehicle as defined in  
16          Section 40-12-240, but the term shall not include ~~trailers,~~  
17          ~~semitrailers or house trailers as defined in Section 40-12-240~~  
18          any trailer not required to have a certificate of title.

19          "~~(5) MOTOR VEHICLE RECONDITIONER. Any person, firm,~~  
20          ~~or corporation engaged in the business of refurbishing,~~  
21          ~~repairing, or replacing damaged parts of motor vehicles for~~  
22          ~~the purpose of preparing the vehicle for resale under the same~~  
23          ~~identification and identity as the vehicle bore before the~~  
24          ~~refurbishing.~~

1           "~~(6)~~(5) 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 ~~shall~~ may be assigned a new  
7 identification to be issued by the Department of Revenue under  
8 the provisions of Chapter 8 of Title 32. The term also  
9 includes any person, firm, or corporation engaged in the  
10 business of refurbishing, repairing, or replacing damaged  
11 parts of motor vehicles for the purpose of preparing the  
12 vehicle for resale under the same identification and identity  
13 as the vehicle had before the refurbishing.

14           "~~(7)~~(6) 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           "~~(8)~~(7) 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           "~~(9)~~(8) NEW MOTOR VEHICLE DEALER. Any person, firm,  
23 or corporation which holds a bona fide contract or franchise  
24 in this state in effect with a manufacturer or distributor of  
25 new motor vehicles and is engaged in the business of selling,

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

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

20 "~~(11)~~(10) 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 "~~(12)~~(11) USED MOTOR VEHICLE DEALER. Any person,  
25 firm, or corporation engaged in the business of buying,

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

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

23 "§40-12-391.

24 "(a) No person shall be licensed as an automobile  
25 dealer under the provisions of Section 40-12-51, nor shall any

1 person engage in business as, serve in the capacity of, or act  
2 as a new motor vehicle dealer, used motor vehicle dealer,  
3 ~~motor vehicle reconditioner,~~ motor vehicle rebuilder, or motor  
4 vehicle wholesaler in this state, without first obtaining a  
5 license as provided in this article and, if a new motor  
6 vehicle dealer, or a used motor vehicle dealer, a state sales  
7 tax number.

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

15 "(c) Notwithstanding any law of this state providing  
16 otherwise, neither a new motor vehicle dealer nor a used motor  
17 vehicle dealer nor any person engaged in the business of motor  
18 vehicle rental and leasing:

19 "(1) With respect to a credit sale transaction, is  
20 required to be licensed under Chapter 19 of Title 5 in order  
21 to pay any amount necessary to satisfy a lease on, security  
22 interest in, or lien on any motor vehicle either returned to  
23 that dealer or to the lessor or traded in by the purchaser in  
24 connection with the credit sale transaction, and to include

1 that amount as part of the amount to be paid by the purchaser  
2 under the credit sale transaction; or

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

12 "§40-12-392.

13 "(a) The application for a license shall be in such  
14 form and shall be subject to such rules and regulations as may  
15 be prescribed by the commissioner. An application shall be  
16 verified by the oath or affirmation of the applicant. If the  
17 applicant is a sole proprietorship, the application shall  
18 contain the name and residence of the applicant. If the  
19 applicant is a partnership, the application shall contain the  
20 names and residences of each partner. If the applicant is a  
21 corporation, the application shall contain the names and  
22 residences of the officers and directors. If the applicant is  
23 a new motor vehicle dealer, or used motor vehicle dealer in  
24 this state, the application shall contain the state sales tax  
25 number assigned to the applicant. The application shall

1 enumerate the number of new and used vehicles sold during the  
2 previous calendar year; describe the exact location of the  
3 place of business, and shall state: That the location is a  
4 permanent one; that the location affords sufficient space upon  
5 and within which to adequately display one or more motor  
6 vehicles offered for sale and that an appropriate sign  
7 designates the location as being the place of business of a  
8 motor vehicle dealer; that it is a suitable place from which  
9 the applicant can in good faith carry on such business and  
10 keep and maintain books and records necessary to conduct  
11 business, which shall be available at all reasonable hours for  
12 inspection by the commissioner. The application shall state  
13 that the applicant is either (i) franchised by a manufacturer  
14 of motor vehicles, and, if so, the name of the manufacturer  
15 and line make that the applicant is authorized to represent,  
16 or (ii) a used motor vehicle dealer, ~~reconditioner,~~ rebuilder,  
17 or wholesaler. Upon making application, the person applying  
18 shall pay an application fee of ~~ten dollars (\$10)~~ twenty-five  
19 dollars (\$25) to the commissioner in addition to other fees  
20 required by law. The commissioner may cause an investigation  
21 to be made and upon being satisfied that the facts set forth  
22 in the application are true, shall issue a license certificate  
23 to the applicant, which shall entitle the licensee to operate  
24 as a motor vehicle dealer, ~~reconditioner,~~ rebuilder, or  
25 wholesaler for one year from the first day of October of each



1 year. If the commissioner, upon investigation, determines that  
2 a license should not be issued, the commissioner may deny the  
3 license and the applicant may appeal the denial to the  
4 Administrative Law Division of the department as allowed in  
5 Chapter 2A of this title.

6 "(b) A ~~motor vehicle reconditioner,~~ motor vehicle  
7 ~~rebuilder,~~ or a motor vehicle wholesaler who is not a new or  
8 used motor vehicle dealer shall not be required to maintain a  
9 sign designating the location, and may maintain books,  
10 records, and files of his or her business at his or her home;  
11 provided, that books, records, and files shall be accessible  
12 and available for inspection by the commissioner, inspectors,  
13 or employees during normal business hours on usual business  
14 days. The location may be adjacent to his or her residence.

15 "~~(c) If a motor vehicle reconditioner, a motor~~  
16 ~~vehicle rebuilder, or a motor vehicle wholesaler shall also be~~  
17 ~~a motor vehicle dealer within the meaning of this article, he~~  
18 ~~or she shall qualify with the commissioner both as a motor~~  
19 ~~vehicle dealer and motor vehicle reconditioner, or motor~~  
20 ~~vehicle rebuilder or motor vehicle wholesaler, and shall file~~  
21 ~~his or her application and pay the fee for each business, and~~  
22 ~~shall comply with the requirements of subsections (a) and (b)~~  
23 ~~of this section as to the business location for each business~~  
24 ~~licensed by the commissioner.~~

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

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

22           "§40-12-395.

23           "(a) A person licensed under this article shall  
24    obtain a supplemental license for each additional place of  
25    business, ~~on a form to be furnished~~ in a manner as prescribed

1 by the commissioner and upon payment of an additional  
2 application fee of ~~\$5~~ five dollars (\$5) for each ~~such~~  
3 additional location. The signage and other requirements of  
4 Section 40-12-392 shall apply to each additional place of  
5 business. Only one licensed dealer shall operate at the same  
6 place of business; ~~provided, that a licensed motor vehicle~~  
7 ~~reconditioner or motor vehicle rebuilder may operate on the~~  
8 ~~premises for which he is licensed to operate as a motor~~  
9 ~~vehicle dealer.~~

10 "(b) Notwithstanding the requirement that sales of  
11 new and used motor vehicles shall be made only from the  
12 permanent location of the new or used motor vehicle dealer,  
13 such dealers may conduct sales of new and used motor vehicles  
14 from locations off-site of their permanent locations on the  
15 following conditions:

16 "(1) The off-site sales events shall not exceed  
17 three per dealer per license year with each sale not to exceed  
18 10 consecutive calendar days in duration. Off-site sales of  
19 new motor vehicles by new motor vehicle dealers shall be  
20 conducted only at a location within the new motor vehicle  
21 dealer's area of responsibility as defined in the contract or  
22 franchise agreement between the new motor vehicle dealer and  
23 its manufacturer or distributor. Off-site sales of used motor  
24 vehicles shall be conducted only at a location in the county

1 or city where the new or used motor vehicle dealer maintains a  
2 permanent location.

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

11 "(3) ~~Not later than 14 days~~ At least one calendar  
12 day before conducting each off-site sale, the motor vehicle  
13 dealer shall obtain ~~from the commissioner on a form designed~~  
14 ~~by the commissioner~~ an off-site sale license by making license  
15 application to the commissioner and paying an application fee  
16 of twenty-five dollars (\$25) for each off-site sale to be  
17 conducted. If more than one motor vehicle dealer participates  
18 in the same off-site sale, each motor vehicle dealer  
19 participating in the sale shall obtain an off-site sale  
20 license from the commissioner.

21 "(c) In addition to the foregoing, the motor vehicle  
22 dealer shall obtain from the judge of probate or other county  
23 ~~taxing~~ licensing official a county license for the off-site  
24 location by paying the county license tax imposed pursuant to  
25 Section 40-12-51. If more than one motor vehicle dealer

1 participates in the same off-site sale, each motor vehicle  
2 dealer participating in the sale shall obtain from the judge  
3 of probate or other county ~~taxing~~ licensing official a county  
4 license for the off-site location by paying the county license  
5 tax imposed pursuant to Section 40-12-51.

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

12 "(e) For purposes of this section, an off-site sales  
13 license shall not be required for wholesale sales between  
14 licensed motor vehicle dealers or for retail sales by new or  
15 used motor vehicle dealers conducted at the permanent location  
16 of an auction company which is licensed as a used motor  
17 vehicle dealer.

18 "§40-12-396.

19 "(a) The commissioner may, subject to the appeal  
20 provisions allowed in Chapter 2A of this Title 40, suspend or  
21 revoke any license issued for the willful and intentional  
22 failure of the licensee to comply with the provisions of this  
23 article or for the willful failure to maintain his business  
24 premises, location, and sign as described in his application.

1           "(b) A license may be revoked or a license  
2 application may be denied by the Department of Revenue for any  
3 of the following reasons:

4           "(1) Fraud practiced or any material misstatement in  
5 license application.

6           "(2) Change of condition after a license is granted  
7 or the failure to maintain qualification for the license.

8           "(3) Skipping title assignment; accepting open  
9 assignment of title and/or bill of sale for a motor vehicle  
10 which is not completed by identifying said licensee as the  
11 purchaser or assignee of the motor vehicle.

12           "(4) ~~Has~~ Having no established place of business.

13           "(5) Failing to keep and maintain records.

14           "(6) ~~Has knowingly dealt~~ Knowingly dealing in stolen  
15 motor vehicles, parts, or accessories.

16           "(7) Willful failure to comply with provisions of  
17 this chapter, or any rule or regulation promulgated  
18 thereunder.

19           "(8) Disconnecting, turning back, or resetting the  
20 odometer of any motor vehicle in violation of state or federal  
21 law.

22           "(9) Filing a materially erroneous or fraudulent tax  
23 return as certified by the Department of Revenue.

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

4           "\$40-12-398.

5           "~~Annually, before~~ Before any license shall be issued  
6 to a new motor vehicle dealer, used motor vehicle dealer,  
7 ~~motor vehicle reconditioner,~~ motor vehicle rebuilder, or motor  
8 vehicle wholesaler, the applicant shall ~~either~~ deliver to the  
9 commissioner a good and sufficient surety bond, executed by  
10 the applicant as principal and by a corporate surety company  
11 qualified to do business in the state as surety, in the sum of  
12 ~~\$25,000 for a new motor vehicle dealer and \$10,000 for all~~  
13 ~~other dealers fifty thousand dollars (\$50,000)~~ twenty-five  
14 thousand dollars (\$25,000). Such bond shall be in a form to be  
15 approved by the commissioner, and shall be conditioned that  
16 the motor vehicle dealer, ~~motor vehicle reconditioner,~~ motor  
17 vehicle rebuilder, or motor vehicle wholesaler shall comply  
18 with the conditions of any contract made by such dealer in  
19 connection with the sale or exchange of any motor vehicle and  
20 shall not violate any of the provisions of law relating to the  
21 conduct of the business for which he is licensed. Such bond  
22 shall be payable to the commissioner and to his successors in  
23 office, and shall be in favor of any person who shall recover  
24 any judgment for any loss as a result of any violation of the  
25 conditions hereinabove contained. ~~Such bond shall be for the~~

1 ~~license period, and a new bond or proper continuation~~  
2 ~~certificate shall be delivered to the commissioner at the~~  
3 ~~beginning of each license period; provided, that the aggregate~~  
4 ~~liability of the surety in any one license year shall, in no~~  
5 ~~event, exceed the sum of such bond. The provisions of this~~  
6 ~~section shall not apply to motor vehicle dealers or~~  
7 ~~wholesalers who hold a valid motor vehicle dealer license~~  
8 ~~under Section 40-12-51 or to motor vehicle rebuilders or~~  
9 ~~reconditioners, as defined in this article who hold a valid~~  
10 ~~business license to engage in such business as of April 1,~~  
11 ~~1978. The bond shall serve in lieu of the bond provided for in~~  
12 ~~subsection (b) of Section 32-8-34 and, in addition to all~~  
13 ~~other conditions, shall also be conditioned upon their~~  
14 ~~performance of their duties as a designated agent under~~  
15 ~~Chapter 8 of Title 32.~~

16 "§40-12-400.

17 "Any person violating any of the provisions of this  
18 article shall be guilty of a Class A misdemeanor and, upon  
19 conviction, shall be punished by a fine of not less than five  
20 hundred dollars (\$500) nor more than two thousand dollars  
21 (\$2,000), or by imprisonment in the county jail for not less  
22 than 30 nor more than 90 days, or by both such fine and  
23 imprisonment."

24 Section 3. Although this bill would have as its  
25 purpose or effect the requirement of a new or increased



1 expenditure of local funds, the bill is excluded from further  
2 requirements and application under Amendment 621, now  
3 appearing as Section 111.05 of the Official Recompilation of  
4 the Constitution of Alabama of 1901, as amended, because the  
5 bill defines a new crime or amends the definition of an  
6 existing crime.

7 Section 4. Section 1 of this act shall become  
8 effective October 1, 2014, following its passage and approval  
9 by the Governor or its otherwise becoming law. Section 2 of  
10 this act shall become effective August 1, 2014, following its  
11 passage and approval by the Governor or its otherwise becoming  
12 law.

