

HOUSE BILL NO. 782

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DURAM

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING FOR THE DIRECT SALE OF AUTOCYCLES; AND AMENDING SECTION 61-4-101, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Direct sale of autocyclus. A manufacturer of autocyclus may sell autocyclus directly to consumers.

Section 2. Section 61-4-101, MCA, is amended to read:

"61-4-101. Types of licenses and terms -- common application -- bonds -- zoning. (1) Except as provided in 61-4-120, ~~and 61-4-125,~~ and [section 1], a person may not engage in the business of buying, selling, exchanging, accepting on consignment, or acting as a broker of a motor vehicle, trailer, travel trailer, semitrailer, pole trailer, motorcycle, quadricycle, motorboat, personal watercraft, snowmobile, off-highway vehicle, or special mobile equipment that is not registered in the person's name unless the person is the holder of a license issued by the department under this part.

(2) (a) The department may issue a new dealer's license, a used dealer's license, a broker's license, an auto auction license, or a wholesaler license to any person it determines is qualified to hold the license under the provisions of this section.

(b) A new dealer's license authorizes the holder to sell:

(i) any new motor vehicle, new power sports vehicle, or new trailer that is covered under a franchise agreement between the holder and the manufacturer, importer, or distributor of the line of vehicle or trailer offered for sale; and

(ii) any used motor vehicle, used power sports vehicle, or used trailer.

(c) A used dealer license authorizes the holder to sell any used motor vehicle, used power sports

1 vehicle, or used trailer.

2 (d) A broker's license authorizes the holder to negotiate the purchase, sale, or exchange of a
3 motor vehicle, power sports vehicle, or trailer from a dealer or another person upon behalf of a client when the
4 broker does not store, display, or take ownership of the motor vehicle, power sports vehicle, or trailer being
5 purchased, sold, or exchanged.

6 (e) Except as provided in 61-4-120, an auto auction license authorizes the holder to take
7 possession of a used vehicle owned by another person through consignment, bailment, or any other
8 arrangement and to sell to the highest bidder when all bidders are licensed vehicle dealers, wholesalers, or
9 wrecking facilities.

10 (f) A wholesaler license authorizes the holder to sell used vehicles to a new or used vehicle
11 dealer, an auto auction, or another wholesaler.

12 (3) Dealer license expiration dates must be staggered throughout the year.

13 (4) Subject to the provisions of 61-4-120, 61-4-124, and 61-4-125, a license issued by the
14 department is valid until:

15 (a) voluntarily returned to the department for surrender and cancellation upon the cessation of the
16 licensee's business operations; or

17 (b) suspended or revoked for a violation of this chapter or any other laws relating to the sale of
18 motor vehicles, power sports vehicles, or trailers.

19 (5) (a) An applicant for a new dealer's license, a used dealer's license, a broker's license, an auto
20 auction license, or a wholesaler license shall submit a written application to the department. The application
21 must be signed by the applicant and contain a verification by the applicant, under penalty of law, that the
22 information contained in the application is true and correct. Any information provided in the license application
23 process is subject to independent verification by the department or an authorized representative of the
24 department.

25 (b) After examining a license application and conducting an investigation necessary to verify the
26 information contained in the application and if the department is satisfied that the applicant qualifies for the
27 issuance of a license under the provisions of this chapter, the department may issue the license. The
28 department may refuse, after examination and investigation, to issue a license to an applicant who is not

1 qualified for licensure or whose prior financial or other activities or criminal record, as determined by the
2 department:

- 3 (i) poses a threat to the effective regulation of dealers, wholesalers, or auto auctions;
- 4 (ii) poses a threat to the public interest of the state; or
- 5 (iii) creates a danger of illegal or deceptive practices being used in the conduct of the proposed
6 dealership, wholesaler, or auto auction.

7 (6) To be qualified for licensure, an applicant shall provide to the department the following
8 information:

9 (a) the name under which the applicant intends to conduct business and the applicant's name, the
10 street address and, if different, mailing address for the business, and customer identification number;

11 (b) the name, date of birth, and social security number of any person who:

- 12 (i) possesses or will possess an ownership interest in the business for which the license is sought;
- 13 (ii) is a corporate officer or the managing member of a business entity applying for the license; or
- 14 (iii) is or will be designated by the applicant to manage or oversee the applicant's business;

15 (c) for each person subject to the provisions of subsection (6)(b), information concerning whether
16 the person has:

17 (i) an ownership interest in a vehicle dealership, an auto auction, or a wholesaler business in
18 Montana or any other state and, if so, the name and address of each dealership, auto auction, or wholesaler;
19 and

20 (ii) been found guilty of, or pleaded guilty to, a felony in this or any other jurisdiction and, if so,
21 shall provide a summary of the conduct resulting in the felony charge, including the dates of the conduct and
22 any court proceedings pertaining to the conduct and the name and address of any court in which the matter
23 was heard;

24 (d) the name, address, and telephone number of the insurance carrier from whom the applicant
25 has acquired general liability insurance, naming the department as a certificate holder of the policy, and the
26 name, address, and telephone number of the local insurance agent for the carrier and the applicant's policy
27 number. The insurance must cover any motor vehicle bearing dealer or demonstrator license plates and any
28 motorboat, snowmobile, or off-highway vehicle displaying a dealer's identification card that is offered for

1 demonstration or loan to a customer or otherwise operated by a customer in the regular course of the
2 applicant's business and must be for a minimum of 1 year;

3 (e) the geographic location of the physical lot or lots upon which vehicles will be displayed for sale,
4 if applicable, and of a permanent nonresidential building, with no more than three other wholesale, broker,
5 auction, or retail vehicle dealers in the same building or at the same location, that will be maintained to store the
6 actual physical or electronic records resulting from the purchase, sale, trade, or consignment of vehicles for
7 which licensure is sought. An applicant may use more than one location to display vehicles for sale if the
8 maximum distance between each display lot does not exceed 200 feet and if the distance between a display lot
9 and the building in which vehicle sales records are stored does not exceed 1,000 feet.

10 (f) for each geographic location specified in the application, evidence of the applicant's
11 compliance with applicable local land use planning, zoning, and business permitting requirements, if any.
12 Evidence of compliance may be documented by means of a written verification of compliance signed by the
13 authorized representative of the local land use planning or zoning board or the local business-permitting
14 agency.

15 (g) a diagram or plat showing the geographic location, lot dimensions, if applicable, and building
16 and sign placement for the applicant's proposed established place of business, along with two or more
17 photographs of the geographic location, building premises, and sign, as prescribed by the department;

18 (h) if the applicant is seeking a new motor vehicle dealer's license:

19 (i) the name and address of the manufacturer, importer, or distributor with whom the applicant has
20 a written new motor vehicle, power sports vehicle, or trailer franchise or sales agreement, the term of the
21 agreement, and the name and make of all motor vehicles, power sports vehicles, or trailers to be handled by
22 the applicant;

23 (ii) the geographic location or locations, specified in writing, upon which the applicant will provide
24 and maintain a permanent building to display and sell new motor vehicles, power sports vehicles, or trailers and
25 offer and maintain a bona fide service department for the repair, service, and maintenance of the motor
26 vehicles, power sports vehicles, or trailers; and

27 (iii) verification that the applicant otherwise meets the requirements of part 2 of this chapter.

28 (7) If an applicant wants to maintain more than one established place of business, the applicant

1 shall file a separate license application for each proposed place of business and otherwise qualify for licensure
2 at each place separately.

3 (8) Each application under this section must be accompanied by the following fees:

4 (a) for a new or used dealer's license, a broker's license, or a wholesaler's license, \$30; and

5 (b) for an auto auction license, the fee provided for in 61-4-120.

6 (9) (a) Except as provided in subsection (9)(b), an applicant for a dealer's license, broker's license,
7 wholesaler's license, or auto auction license shall also file with the application a bond of \$50,000.

8 (b) An applicant whose business will be restricted to the sale of motorcycles or quadricycles shall
9 file a bond of \$15,000. An applicant whose business will be restricted to the sale of motorboats, personal
10 watercraft, snowmobiles, or off-highway vehicles, other than motorcycles originally equipped for use on the
11 highway, shall file a bond of \$5,000.

12 (c) All bonds must be conditioned that the applicant shall conduct the business in accordance with
13 the requirements of the law. All bonds must be approved by the department, must be filed in its office, and must
14 be renewed annually."
15

16 NEW SECTION. Section 3. Codification instruction. [Section 1] is intended to be codified as an
17 integral part of Title 61, chapter 4, part 1, and the provisions of Title 61, chapter 4, part 1, apply to [section 1].

18 - END -