

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SIXTH LEGISLATURE

Legislative Document

No. 629

H. P. 478

House of Representatives, February 1, 1973

Referred to Committee on Transportation. Sent up for concurrence and ordered printed.

E. LOUISE LINCOLN, Clerk

Presented by Mr. Keyte of Dexter.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-THREE

AN ACT Revising the Motor Vehicle Dealer Licensing Law.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. R. S., T. 29, c. 5, sub-c. III-A, additional. Chapter 5 of Title 29 of the Revised Statutes is amended by adding a new subchapter III-A, to read as follows:

SUBCHAPTER III-A

REGISTRATION OF DEALERS AND TRANSPORTERS

§ 341. Definitions

As used in this subchapter, unless the context otherwise indicates, the following words shall have the following meanings.

1. Dealer. "Dealer" means every person engaged in the business of buying, selling or exchanging vehicles who has an established place of business for such purpose in this State, and to whom current dealer registration plates have been issued by the Secretary of State.

2. Equipment dealer. "Equipment dealer" means any dealer whose primary business is in the buying and selling of new or used farm equipment, or both, or industrial equipment, or both.

3. Established place of business. "Established place of business" means a permanent, enclosed commercial building located within the State of Maine easily accessible and open to the public, at all reasonable times, with an improved automobile display area of not less than 5,000 square feet in or immediately adjoining said building, and at which the business of a motor vehicle

dealer, including the display and repair of motor vehicles, may be lawfully carried on in accordance with the terms of all applicable building code, zoning and other land-use regulatory ordinances and in such building the public may contact the motor vehicle dealer or his representative, 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 at such place. The established place of business shall display an exterior sign permanently affixed to the land or buildings.

4. Full-time employee. "Full-time employee" means any person who is employed by a dealer and works at his established place of business at least 30 hours per week.

5. Immediate family. "Immediate family" means wife, husband, son, daughter, son-in-law, daughter-in-law residing in the same household as the dealer.

6. Motorcycle dealer. "Motorcycle dealer" means any person whose primary business is in the buying and selling of new or used motorcycles, or both.

7. New car dealer. "New car dealer" means any dealer whose primary business is the buying and selling of new motor vehicles and who has a franchise from a distributor or manufacturer.

8. Person. "Person" means every natural person, firm, copartnership, association or corporation.

9. Trailer dealer. "Trailer dealer" means any dealer whose primary business is in the buying and selling of new or used trailers or semitrailers, or both.

10. Used car dealer. "Used car dealer" means any dealer whose primary business is in buying and selling used motor vehicles.

§ 342. Dealers must be registered

No person shall engage in the business of buying, selling or offering for sale any vehicle without having been issued a license under this subchapter. The terms of each license shall be for the period beginning from the date of issuance of such license and ending on the 31st day of December next following.

§ 343. Requirements

1. Facilities and personnel. To qualify as a dealer under this subchapter the applicant must have at least the following facilities and personnel:

- A. Proper facilities for the display of the vehicles being handled;
- B. Repair department for the repair of 2 vehicles simultaneously;
- C. Sufficient tools and equipment for proper servicing of the vehicles handled;

D. A suitable office from which business is conducted and records of the business are kept;

E. At least one mechanic, other than the dealer, who has a thorough knowledge of the vehicles being handled.

The requirements of this section shall be in accordance with the rules, regulations and standards promulgated and established by the Secretary of State, provided that the requirements as to repair facilities and mechanic shall not apply to holders of used car dealer registration plates on January 1, 1964. However the exemption from the requirement as to repair facilities and mechanic will expire in the case of any holder of used car dealer registration plates on January 1, 1964 should said holder relocate his place of business, discontinue his business, or sell his business.

§ 344. Application for license; form; fee

1. Application. A vehicle dealer may apply for a license by filing with the Secretary of State an application in such form as the Secretary of State may prescribe and upon payment of the necessary fee as set forth.

2. Contents; general. Every application shall contain the following information to the extent the same is applicable to the applicant:

A. The applicant's form and place of organization;

B. The qualification and business history of the applicant, and in the case of a motor vehicle dealer, any partner, officer or director;

C. Whether the applicant has been found guilty of any felony within the past 5 years involving moral turpitude, or for any misdemeanor concerning fraud or conversion, or suffering any judgment in any civil action involving fraud, misrepresentation or conversion and in the case of a corporation or partnership, all directors, officers or partners;

D. Any other information the Secretary of State may require.

3. Motor vehicle dealer. If the applicant is a motor vehicle dealer, then information as to the type of business he will be engaged in, including:

A. Whether the applicant intends to sell used motor vehicles, and if so, whether he has space available for servicing and repairs;

B. A certificate by the Chief of State Police or his deputy, or a member of the Maine State Police or a representative of the Secretary of State that the applicant has an established place of business at each business location in the State of Maine;

C. A copy of a current service agreement with a manufacturer or distributor for a foreign manufacturer, requiring the applicant, upon demand of any customer receiving a new vehicle warranty to perform or arrange for, within a reasonable distance of his established place of business, the service, repair and replacement work required of the manufacturer or dis-

tributor by such vehicle warranty; provided that this requirement shall only apply to applicants seeking to sell new or current-model vehicles with factory or distributor warranties;

D. Any other information the Secretary of State may require.

§ 345. Special requirements for license to deal in new vehicles

1. Requirements. A license to deal in new vehicles shall state the make or makes of new vehicles in which the licensee is authorized to deal. It may be issued only to:

A. A sales branch or agency of a manufacturer of vehicles;

B. A distributor of new vehicles who holds an unexpired appointment as such in writing from the manufacturer of such vehicles; or

C. A dealer in new vehicles who holds an unexpired appointment as such in writing from the manufacturer of such vehicles or from an authorized distributor of such vehicles.

2. Certification of franchise. Every applicant for a license to deal in new vehicles shall submit with his application a certification of franchise from the manufacturer of the new vehicles he desires to sell.

§ 346. Initial application fee

The initial application for a license under this subchapter must be accompanied by a fee of \$20. This fee is not refundable.

§ 347. License and plate fees

Except as sections 357 and 358 provide, the annual fee for every license shall be \$25. The annual fee for plates shall be \$10 per plate, except that on application for additional plates applied for during the period between the first day of September and the 31st day of December in any year, $\frac{1}{2}$ of the plate fee shall be charged. Dealer plates shall be valid from January 1st to December 31st in any year. On and after December 25th of each calendar year, it shall be lawful to use and display on motor vehicles the number plates issued for the next succeeding year. The dealer certificate of registration and license shall be displayed at the dealer's place of business.

The number of dealer plates issued to each dealer shall be determined by the Secretary of State.

§ 348. Display and content of license

The licenses of vehicle dealers shall specify the location of each place of business or branch or other location occupied or to be occupied by the licensee in conducting his business as such and the license or supplemental license issued therefor shall be conspicuously displayed at each of such premises. Additionally, every new car dealer's license shall state the type or types of vehicles in which the licensee is authorized to deal and the locations from which particular types may be dealt in.

§ 348-A. Change in status of dealership

1. Any new car dealer that terminates his franchise, or his franchise is terminated, shall immediately surrender his new car dealer plates and certificates to the Secretary of State, and the Secretary of State shall issue, if business is to be continued, the appropriate class of plates.

2. A used car dealer who obtains a new car franchise from a manufacturer or distributor shall immediately surrender his used car plates and certificates and the Secretary of State shall issue the appropriate class of plates.

§ 349. Grounds for denying, suspending or revoking licenses

1. Grounds. A license may be denied, suspended or revoked on any one or more of the following grounds:

A. Material misstatement in application for license;

B. Willful failure to comply with any provision of this subchapter or any lawful rule or regulation promulgated by the Secretary of State under this subchapter;

C. Being a motor vehicle dealer, trailer or semitrailer dealer, failure to have an established place of business as defined in this subchapter;

D. Failure to notify the Secretary of State in writing 30 days prior to moving location;

E. Willfully defrauding any retail buyer to the buyer's damage or any other person in the conduct of the licensee's business;

F. Having been convicted of any fraudulent act in connection with the business of selling motor vehicles;

G. Any violation of Title 5, sections 206 to 212 (Unfair Trade Practices Act);

H. Has submitted a check, draft or money order to the Secretary of State for any obligation or fee due the State and it is thereafter dishonored or refused upon presentation.

§ 350. Action upon application; hearing upon denial; denial for failure to have established place of business

The Secretary of State, after a thorough investigation, shall act upon all applications for a license within 90 days after the receipt thereof, by either granting or refusing the same. Any applicant denied a license shall, upon his written request filed within 30 days, be given a hearing at such time and place as determined by the Secretary of State or person designated by him. All such hearings shall be public and shall be held with reasonable promptness. The applicant may be represented by counsel.

Any applicant denied a license for failure to comply with the definition of an established place of business may not, nor shall anyone, apply for a license for such premises, for which a license was denied, until the expiration of 60 days from the date of the rejection of such application.

§ 351. Suspension, revocation and refusal to renew licenses; notice and hearing

No license shall be suspended or revoked, or renewal thereof refused, until a written copy of the complaint made has been furnished to the licensee against whom the same is directed and a public hearing thereon has been had before the Secretary of State. At least 10 days' written notice of the time and place of such hearing shall be given to the licensee, in hand, or by registered mail addressed to his last known post-office address or as shown on his license or other record of information. A licensee shall have the right to be heard personally or by counsel. After hearing, the Secretary of State shall have power to suspend, revoke or refuse to renew, the license in question. Immediate notice of any such action shall be given to licensee in the manner provided in the case of notice of hearing.

§ 352. Acts of officers, directors, partners and salesmen

If a licensee is a partnership or corporation, it shall be sufficient cause for the denial, suspension or revocation of a license that any officer, director or trustee of the partnership or corporation, or any member in the case of a partnership, has committed any act or omitted any duty which would be cause for refusing, suspending or revoking a license to such party as an individual. Each licensee shall be responsible for the acts of any or all of his salesmen while acting as his agent, if such licensee approved of or had knowledge of such acts or other similar acts and after such approval or knowledge retained the benefit, proceeds, profits or advantages accruing from such acts or otherwise ratified the acts.

§ 353. Appeals from actions of the Secretary of State

Any person aggrieved by the action of the Secretary of State in refusing to grant or renew a license under this subchapter or in suspending or revoking a license or by any other action of the Secretary of State which is alleged to be improper, unreasonable or unlawful under this subchapter may within 30 days' notice of the decision appeal to the Superior Court.

§ 354. Vehicle and equipment dealer registration plates; use limitations

1. Vehicle manufacturers and new and used vehicle dealers. Vehicles owned or controlled by vehicle manufacturers and new and used vehicle dealers may be operated using dealer registration plates under the following conditions only:

- A. For the purpose of testing or adjusting such vehicles;
- B. For purposes directly connected with the business of buying, servicing, selling, demonstrating or exchanging of such vehicles;
- C. For personal use of manufacturers, dealers or the immediate members of their family provided they are members of the household;
- D. For the use of such vehicles in funerals or in public parades when no charge is made for such use;

E. For the use of full-time salesmen, general managers, sales managers or service managers who are on the dealer's payroll as such, but not the immediate family or members of the household of said salesmen, general managers, sales managers or service managers.

2. Equipment dealers. Equipment dealer plates shall be used for demonstration, service and emergency purposes on the following new and used equipment not otherwise prohibited for use on the highways:

- A. Motorized graders;
- B. Power shovels;
- C. Front-end loaders;
- D. Backhoes;
- E. Rubber tired bulldozers;
- F. Large 4-wheel drive type trucks and snowplows;
- G. Motor cranes;
- H. Road sweepers;
- I. Sidewalk cleaners;
- J. Log skidders;
- K. Other related heavy equipment;
- L. Farm tractors;
- M. Self-propelled combines;
- N. Harvesters;
- O. Other related farm machinery;
- P. Any equipment or motor vehicle taken in trade.

A vehicle loaned by an equipment dealer to a customer for demonstration or emergency purposes may be operated on the registration plates of the dealer for not more than 7 consecutive days. The Secretary of State may in his discretion extend said period of 7 consecutive days to no more than 30 consecutive days whenever he finds the need for such extension is justified. This plate cannot be used for lease, rental, hire or for pleasure.

The holder of equipment dealer plates may demonstrate an automobile taken in trade only if the vehicle is accompanied by the equipment dealer or someone in his employ.

3. Wreckers. Anyone issued vehicle dealer or equipment dealer registration plates shall have the right to operate his motor vehicle wrecker in connection with his business on such dealer plates.

4. Permit to demonstrate loaded truck. A dealer, to demonstrate a loaded truck bearing dealer registration plates, must first obtain a written permit

from the Secretary of State and either the dealer or one of his full-time employees must accompany the vehicle.

5. Certificate for house trailers. No house trailer, as defined in Title 36, section 1481, shall be moved over the highways of this State through use of dealer plates unless the operator of the vehicle hauling such trailer has in his possession a written certificate from the tax collector of the municipality from which the trailer is being moved, identifying the trailer and stating that all property taxes applicable to the trailer, including those for the current tax year, have been paid or that the trailer is exempt from such taxes. The tax year shall be the period from April 1st through March 31st.

§ 355. Record of transactions

A dealer shall complete and maintain a record of the purchase and sale of all vehicles purchased or sold by him, which record shall consist of but not be limited to the following :

1. A description of vehicles ;
2. The name and address of person from whom purchased ;
3. The name of legal owner, if different ;
4. The name of purchaser ;
5. Mileage when vehicle was received.

Such record shall at all times be available for inspection by the Secretary of State, or his duly authorized agents or duly authorized members of law enforcement agencies. A copy of the records shall be filed with the Secretary of State's office immediately following the sale or disposition of the vehicle.

§ 356. Equipment dealer

Equipment dealer registration plates and licenses shall be issued to those persons, who qualify under this subchapter, whose primary business is the buying and selling of farm and industrial vehicles or equipment, or both.

§ 357. Motorcycle dealer; fee

Motorcycle registration plates and license shall be issued to those persons, who qualify under this subchapter, whose primary business is the selling of new and used motorcycles or motor driven cycles.

Every manufacturer or dealer in motorcycles or motor driven cycles shall annually pay a fee of \$10 for a registration certificate to handle, demonstrate, sell and exchange motorcycles or motor driven cycles. Upon payment of \$5 per plate, plates shall be issued, the number to be determined by the Secretary of State, who is authorized to prescribe reasonable limitations on the use of such plates. Extra registration plates shall be furnished to replace lost or mutilated plates for \$1 each.

§ 358. Boat or snowmobile trailer dealers; fee

Every manufacturer or dealer in boat or snowmobile trailers shall annually pay a fee of \$10 for a registration certificate to handle, demonstrate, sell and exchange boat or snowmobile trailers. Upon payment of \$5 per plate, plates shall be issued, the number to be determined by the Secretary of State, who is authorized to prescribe limitations of use of such plates. Extra registration plates shall be furnished to replace lost or mutilated plates for \$2 each.

§ 359. Trailer and mobile home dealer

Trailer registration plates and license shall be issued to those persons, who qualify under this subchapter, whose primary business is the selling of new and used trailers or mobile homes.

§ 360. Transporter registration certificate and plates; fee

Garage owners, body shops, finance companies, banks and junk dealers may apply for a transporter registration license and plates for the purpose of transportation and delivery of vehicles owned or temporarily in their custody. The holder of a transporter registration plate may transport or deliver using this plate only if the vehicle is accompanied by the owner or someone in his employ. In no event shall any transporter plate be used in lieu of registration plates issued under this Title or be loaned to any person or be used by the holder for personal reasons. Transporter plates shall not be used on a towing vehicle.

Fees for transporter registration licenses and plates will be as set forth in section 347.

§ 361. Loaner registration certificate and plates; fee

Any person issued a license under this subchapter plus owners of body shops, transmission shops and garages may make application upon a blank provided by the Secretary of State for a loaner registration certificate and plates. Loaner plates may be used on vehicles owned by the holder of a loaner registration license for the sole purpose of loaning such vehicles to customers when the customer's properly registered vehicle is disabled and in the garage for repairs. A vehicle loaned by a holder of a loaner license to a customer may be operated on such plate for not more than 7 consecutive days. The Secretary of State may in his discretion extend said period of 7 consecutive days to no more than 30 days, whenever he feels the need for such extension is justified.

A complete record must be kept at the dealer's place of business for inspection at any time stating the hour and date the motor vehicle is loaned and when it is returned, the serial number of the motor vehicle loaned, the loaner plate number and the registration number of the customer's motor vehicle in his care and custody and he must see that the operator has a current operator's license before releasing a vehicle to him and shall record his name and address. Loaner plates may not be used by the registrant on his motor vehicle or on a motor vehicle owned by anyone else in lieu of registration for personal use or pleasure.

Fees for loaner registration licenses and plates will be as set forth in section 347.

§ 362. Rules, regulations and standards

The Secretary of State is authorized and empowered to promulgate and establish rules, regulations and standards to effectuate the purposes of this subchapter in the manner prescribed by Title 5, chapter 303.

§ 363. Temporary registration plates

Any person licensed under this subchapter excepting those holding a transporter license or only a loaner license may, upon the sale or exchange of a motor vehicle, or trailer, attach to the rear of such motor vehicle or trailer a temporary registration plate, and the purchaser of such motor vehicle or trailer may operate the same for a period not to exceed 10 consecutive days thereafter without payment of a regular fee. If the purchaser of such vehicle, or trailer is a nonresident member of the Armed Services, said purchaser may operate the same for a period not to exceed 20 consecutive days thereafter without payment of a regular fee. If at the end of this 20 day period a non-resident serviceman has applied for but not received, a registration certificate from his home state, the Secretary of State may further extend this period without charge for not more than 20 additional days. A temporary registration plate may not be used on a loaded truck without a written permit from the Secretary of State. Any person licensed under this subchapter excepting those holding a transporter license or only a loaner license, shall not attach to the rear of a house trailer or mobile home any temporary registration plate unless the operator of the vehicle hauling the trailer has in his possession the written certificate from the tax collector required by section 343, paragraph 5. Temporary registration plates issued under this section for motorcycles shall be the same size as the regular motorcycle plates.

Any person licensed under this subchapter excepting those holding a transporter license or only a loaner license shall, upon attaching a temporary registration plate to a vehicle sold or exchanged by him, mark thereon the date when said license expires and immediately notify the Secretary of State of said sale or exchange, giving the name and address of the purchaser, the number of the temporary plate and such further information as the Secretary of State may require. The markings required by this paragraph to be placed on a temporary registration plate shall be made not less than one inch in height with indelible or waterproof ink. In every case in which a temporary registration plate is attached to a vehicle, the purchaser shall be furnished a certificate of temporary registration.

The Secretary of State may issue temporary plates and certificate to dealers who request them under such rules and regulations as he shall deem necessary and shall receive 50¢ per plate.

Sec. 2. R. S., T. 29, §§ 331-332, 332-A and 332-B, 333-335, 335-A, 336, 336-A, 337-340, repealed. Sections 331 and 332, sections 332-A and 332-B, as enacted by section 2 of chapter 400 of the public laws of 1969, sections 333

to 335, section 335-A, as enacted by section 5 of chapter 400 of the public laws of 1969, section 336, section 336-A, as enacted by section 7 of chapter 400 of the public laws of 1969, and sections 337 to 340 of Title 29 of the Revised Statutes, as amended, are repealed.

STATEMENT OF FACT

The primary purposes of the proposed revision are (1) to expand and better identify the grounds for denying, suspending or revoking dealer licenses, (2) to exclude new and used car dealers from those authorized transporter plates and (3) to deny holders of transporter plates the authority to issue 10-day temporary registration plates.

Secondary purposes are (1) to effect minor fee changes and (2) to improve the readability of the subchapter and eliminate existing redundancy.