

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

**HOUSE BILL 432
RATIFIED BILL**

AN ACT TO ESTABLISH CIVIL PENALTIES FOR SELLING CARS IN VIOLATION OF THE MOTOR VEHICLE DEALERS AND MANUFACTURERS LICENSING LAW, AND TO ESTABLISH EDUCATIONAL REQUIREMENTS FOR ISSUANCE AND RENEWAL OF LICENSURE FOR USED MOTOR VEHICLE DEALERS.

Whereas, not only the setting of standards to protect purchasers of motor vehicles but also the enforcement of substantial penalties applicable when those standards are not met is one of the most effective means to obtain this protection; and

Whereas, more complex laws governing regulation of the sale and distribution of motor vehicles such as the titling of a vehicle, warranties, collection of consumer debt pursuant to Federal Trade Commission regulations, and applicable tax provisions impose a greater number of duties upon independent automobile dealers; and

Whereas, the most effective and consistent means of informing both applicants for licensure and experienced, licensed motor vehicle dealers of major changes and increasing complexities in the law is to develop a program insuring the development and requirement of appropriate continuing education; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-287 reads as rewritten:

"§ 20-287. Licenses ~~required~~; ~~required~~; penalties.

(a) License Required. — It shall be unlawful for any new motor vehicle dealer, used motor vehicle dealer, motor vehicle sales representative, manufacturer, factory branch, factory representative, distributor, distributor branch, distributor representative, or wholesaler to engage in business in this State without first obtaining a license as provided in this Article. If any motor vehicle dealer acts as a motor vehicle sales representative, the dealer shall obtain a motor vehicle sales representative's license in addition to a motor vehicle dealer's license. A sales representative may have only one license. The license shall show the name of each dealer or wholesaler employing the sales representative. The following license holders may operate as a motor vehicle dealer without obtaining a motor vehicle dealer's license or paying an additional fee: a manufacturer, a factory branch, a distributor, and a distributor branch. Any of these license holders who operates as a motor vehicle dealer may sell motor vehicles at retail only at an established salesroom.

(b) Civil Penalty for Violations by Licensee. — In addition to any other punishment or remedy under the law for any violation of this section, the Division may levy and collect a civil penalty, in an amount not to exceed one thousand dollars (\$1,000) for each violation, against any person who has obtained a license pursuant to this section, if it finds that the licensee has violated any of the provisions of G.S. 20-285 through G.S. 20-303, Article 15 of this Chapter, or any statute or rule adopted by the Division relating to the sale of vehicles, vehicle titling, or vehicle registration.

(c) Civil Penalty for Violations by Person Without a License. — In addition to any other punishment or remedy under the law for any violation of this section, the Division may levy and collect a civil penalty, in an amount not to exceed five thousand dollars (\$5,000) for each violation, against any person who is required to obtain a

license under this section and has not obtained the license, if it finds that the person has violated any of the provisions of G.S. 20-285 through G.S. 20-303, Article 15 of this Chapter, or any statute or rule adopted by the Division relating to the sale of vehicles, vehicle titling, or vehicle registration."

SECTION 2. G.S. 20-288 reads as rewritten:

"§ 20-288. Application for license; license requirements; expiration of license; bond.

(a) A ~~person~~ new motor vehicle dealer, motor vehicle sales representative, manufacturer, factory branch, factory representative, distributor, distributor branch, distributor representative, or wholesaler may obtain a license by filing an application with the Division. An application must be on a form provided by the Division and contain the information required by the Division. An application for a license must be accompanied by the required fee and by an application for a dealer license plate.

(a1) A used motor vehicle dealer may obtain a license by filing an application, as prescribed in subsection (a) of this section, and providing the following:

(1) The required fee.

(2) Proof that the applicant, within the last 12 months, has completed a 12-hour licensing course approved by the Division if the applicant is seeking an initial license and a six-hour course approved by the Division if the applicant is seeking a renewal license. The requirements of this subdivision do not apply to a used motor vehicle dealer the primary business of which is the sale of salvage vehicles on behalf of insurers or to a manufactured home dealer licensed under G.S. 143-143.11 who complies with the continuing education requirements of G.S. 143-143.11B. The requirement of this subdivision does not apply to persons age 62 or older as of July 1, 2002, who are seeking a renewal license.

(3) If the applicant is an individual, proof that the applicant is at least 18 years of age and proof that all salespersons employed by the dealer are at least 18 years of age.

(4) The application for a dealer license plate.

(b) The Division shall require in such application, or otherwise, information relating to matters set forth in G.S. 20-294 as grounds for the refusing of licenses, and to other pertinent matters commensurate with the safeguarding of the public interest, all of which shall be considered by the Division in determining the fitness of the applicant to engage in the business for which he seeks a license.

(c) All licenses that are granted shall expire unless sooner revoked or suspended, on June 30 of the year following date of issue.

(d) To obtain a license as a wholesaler, an applicant who intends to sell or distribute self-propelled vehicles must have an established office in this State, and an applicant who intends to sell or distribute only trailers or semitrailers of less than 2500 pounds unloaded weight must have a place of business in this State where the records required under this Article are kept.

To obtain a license as a motor vehicle dealer, an applicant who intends to deal in self-propelled vehicles must have an established salesroom in this State, and an applicant who intends to deal in only trailers or semitrailers of less than 2500 pounds unloaded weight must have a place of business in this State where the records required under this Article are kept.

An applicant for a license as a manufacturer, a factory branch, a distributor, a distributor branch, a wholesaler, or a motor vehicle dealer must have a separate license for each established office, established salesroom, or other place of business in this State. An application for any of these licenses shall include a list of the applicant's places of business in this State.

(e) Each applicant approved by the Division for license as a motor vehicle dealer, manufacturer, factory branch, distributor, distributor branch, or wholesaler shall furnish

a corporate surety bond or cash bond or fixed value equivalent of the bond. The amount of the bond for an applicant for a motor vehicle dealer's license is twenty-five thousand dollars (\$25,000) for one established salesroom of the applicant and ten thousand dollars (\$10,000) for each of the applicant's additional established salesrooms. The amount of the bond for other applicants required to furnish a bond is twenty-five thousand dollars (\$25,000) for one place of business of the applicant and ten thousand dollars (\$10,000) for each of the applicant's additional places of business.

A corporate surety bond shall be approved by the Commissioner as to form and shall be conditioned that the obligor will faithfully conform to and abide by the provisions of this Article and Article 15. A cash bond or fixed value equivalent thereof shall be approved by the Commissioner as to form and terms of deposits as will secure the ultimate beneficiaries of the bond; and such bond shall not be available for delivery to any person contrary to the rules of the Commissioner. Any purchaser of a motor vehicle who shall have suffered any loss or damage by any act of a license holder subject to this subsection that constitutes a violation of this Article or Article 15 shall have the right to institute an action to recover against the license holder and the surety. Every license holder against whom an action is instituted shall notify the Commissioner of the action within 10 days after served with process. A corporate surety bond shall remain in force and effect and may not be canceled by the surety unless the bonded person stops engaging in business or the person's license is denied, suspended, or revoked under G.S. 20-294. Such cancellation may be had only upon 30 days' written notice to the Commissioner and shall not affect any liability incurred or accrued prior to the termination of such 30-day period. This subsection does not apply to a license holder who deals only in trailers having an empty weight of 4,000 pounds or less. This subsection does not apply to manufacturers of, or dealers in, mobile or manufactured homes who furnish a corporate surety bond, cash bond, or fixed value equivalent thereof, pursuant to G.S. 143-143.12."

SECTION 3. G.S. 20-294 (2) reads as rewritten:

"(2) Willfully and intentionally failing to comply with this Article, Article 15 of this Chapter, or G.S. 20-52.1, 20-75, ~~20-82, 20-79.1~~, 20-108, 20-109, or a rule adopted by the Division under this Article."

SECTION 4. G.S. 20-294 is amended by adding a new subdivision to read:

"(13) Failure to pay a civil penalty imposed under G.S. 20-287."

SECTION 5. This act becomes effective July 1, 2002, and applies to violations and offenses committed on or after that date and licenses issued to used motor vehicle dealers on or after that date.

In the General Assembly read three times and ratified this the 25th day of July, 2001.

Beverly E. Perdue
President of the Senate

James B. Black
Speaker of the House of Representatives

Michael F. Easley
Governor

Approved _____ .m. this _____ day of _____, 2001