

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

S

1

SENATE BILL 385

Short Title: Clarify/Auto Dealers Regulatory Req. (Public)

Sponsors: Senator B. Jackson (Primary Sponsor).

Referred to: Rules and Operations of the Senate

March 28, 2019

1 A BILL TO BE ENTITLED
2 AN ACT TO CLARIFY MOTOR VEHICLE DEALER REGULATORY REQUIREMENTS.
3 The General Assembly of North Carolina enacts:
4

5 **SALESMAN LICENSING/PENDING APPLICATION**

6 **SECTION 1.** G.S. 20-287(a) reads as rewritten:

7 "(a) License Required. – It shall be unlawful for any new motor vehicle dealer, used motor
8 vehicle dealer, motor vehicle sales representative, manufacturer, factory branch, factory
9 representative, distributor, distributor branch, distributor representative, or wholesaler to engage
10 in business in this State without first obtaining a license as provided in this Article. If any motor
11 vehicle dealer acts as a motor vehicle sales representative, the dealer shall obtain a motor vehicle
12 sales representative's license in addition to a motor vehicle dealer's license. A sales representative
13 may have only one license. The license shall show the name of the dealer or wholesaler
14 employing the sales representative. An individual who has submitted an application to the
15 Division for a sales representative license pursuant to G.S. 20-288(a) shall be permitted to engage
16 in activities as a sales representative while the application is pending provided that the sales
17 representative applicant is actively and directly supervised by a licensed motor vehicle dealer or
18 a licensed sales representative. The following license holders may operate as a motor vehicle
19 dealer without obtaining a motor vehicle dealer's license or paying an additional fee: a
20 manufacturer, a factory branch, a distributor, and a distributor branch. Any of these license
21 holders who operates as a motor vehicle dealer may sell motor vehicles at retail only at an
22 established salesroom."

23 **SECTION 2.** G.S. 20-306 reads as rewritten:

24 **"§ 20-306. Unlawful for salesman to sell except for his employer; multiple employment;**
25 **persons who arrange transactions involving the sale of new motor vehicles.**

26 It shall be unlawful for any motor vehicle salesman licensed under this Article or a supervised
27 sales representative who has submitted an application for a license as required in G.S. 20-288 to
28 sell or exchange or offer or attempt to sell or exchange any motor vehicle other than his own
29 except for the licensed motor vehicle dealer or dealers by whom he is employed, or to offer,
30 transfer or assign, any sale or exchange, that he may have negotiated, to any other dealer or
31 salesman. A salesman may be employed by more than one dealer provided such multiple
32 employment is clearly indicated on his license. It shall be unlawful for any person to, for a fee,
33 commission, or other valuable consideration, arrange or offer to arrange a transaction involving
34 the sale of a new motor vehicle; provided, however, this prohibition shall not be applicable to:



- 1 (1) A franchised motor vehicle dealer as defined in G.S. 20-286(8b) who is
 2 licensed under this Article or a sales representative who is licensed under this
 3 Article when acting on behalf of the dealer;
 4 (2) A manufacturer who is licensed under this Article or bona fide employee of
 5 such manufacturer when acting on behalf of the manufacturer;
 6 (3) A distributor who is licensed under this Article or a bona fide employee of
 7 such distributor when acting on behalf of the distributor; or
 8 (4) At any point in the transaction the bona fide owner of the vehicle involved in
 9 the transaction."
 10

11 **LICENSE APPLICATION REVISIONS/PUBLICATION OF MANUFACTURER**
 12 **LICENSE OR LICENSE RENEWAL APPLICATIONS**

13 **SECTION 3.** G.S. 20-288 reads as rewritten:

14 **"§ 20-288. Application for license; license requirements; expiration of license; bond.**

15 (a) A new motor vehicle dealer, motor vehicle sales representative, manufacturer, factory
 16 branch, factory representative, distributor, distributor branch, distributor representative, or
 17 wholesaler may obtain a license by filing an application with the Division. An application must
 18 be on a form provided by the Division and contain the information required by the Division. An
 19 application for a license must be accompanied by the required fee ~~and by an application for a~~
 20 ~~dealer license plate fee.~~ The following requirements also apply to applicants under this section:

21 (1) An application for a new motor vehicle dealer license must be accompanied
 22 by an application for a dealer license plate. In addition, the Division shall
 23 require each applicant for a new motor vehicle dealer license to certify on the
 24 application whether the applicant or any parent, subsidiary, affiliate, or any
 25 other entity related to the applicant is a manufacturer, factory branch, factory
 26 representative, distributor, distributor branch, distributor representative, or
 27 wholesaler. In the event the applicant indicates on the application that the
 28 applicant or any parent, subsidiary, affiliate, or any other entity related to the
 29 applicant is a manufacturer, factory branch, factory representative, distributor
 30 branch, distributor representative, or wholesaler, the applicant shall be
 31 required to state whether the applicant contends it qualifies for a motor vehicle
 32 dealer's license in accordance with any of the exceptions to the prohibition on
 33 the issuance of a motor vehicle dealer's license to any manufacturer, factory
 34 branch, factory representative, distributor, distributor representative, or
 35 wholesaler as provided in G.S. 20-305.2(a).

36 (2) Upon submission of a license application or a license renewal application by
 37 a manufacturer, factory branch, factory representative, distributor, distributor
 38 branch, distributor representative, or wholesaler, the Division shall promptly
 39 publish notice of the license application or license renewal application in the
 40 North Carolina Register. The notice shall include the applicant's name,
 41 address, application date, and the names and titles of any individual listed on
 42 the application as an owner, partner, member, or officer of the applicant. The
 43 Division shall not approve or issue any license or license renewal for a
 44 manufacturer, factory branch, factory representative, distributor, distributor
 45 branch, distributor representative, or wholesaler earlier than 15 days from the
 46 date the notice of the license or license renewal application was published in
 47 the North Carolina Register.

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

50 ...

1 (5) A certification as to whether the applicant or any entity having any common
2 ownership or affiliation with the applicant is a motor vehicle manufacturer,
3 factory branch, factory representative, distributor, distributor branch, or
4 distributor representative. In the event the applicant indicates on the
5 application that the applicant or any parent, subsidiary, affiliate, or any other
6 entity related to the applicant is a manufacturer, factory branch, factory
7 representative, distributor, distributor branch, distributor representative, or
8 wholesaler, the applicant shall be required to state whether the applicant
9 contends it qualifies for a motor vehicle dealer's license in accordance with
10 any of the exceptions to the prohibition on the issuance of a motor vehicle
11 dealer's license to any manufacturer, factory branch, factory representative,
12 distributor, distributor branch, distributor representative, or wholesaler as
13 provided in G.S. 20-305.2(a).

14 "

15 16 **DAMAGES FOR FAILURE TO RELEASE SECURITY INTEREST**

17 **SECTION 4.** G.S. 20-58.4 is amended by adding a new subsection to read:

18 "(b1) A secured party who fails or refuses to execute a release of a security interest or mail
19 or deliver the certificate and release in compliance with subsection (a), (a1), or (b) of this section
20 shall be liable for all costs, damages, and expenses, including reasonable attorney's fees, lawfully
21 incurred by the titled owner or person satisfying the lien in any suit brought in this State for
22 cancellation of the security interest and shall be additionally liable to the Division for a civil
23 penalty in the amount of five hundred dollars (\$500.00)."

24 25 **EFFECTIVE DATE OF RULE, LAW, AND OTHER CHANGES/APPLICABILITY TO** 26 **MOTOR VEHICLE SALES**

27 **SECTION 5.** G.S. 20-2 is amended by adding a new subsection to read:

28 "(c) Effective Date. – Any rule, change in law, or other action that directs or requires a
29 new or adjusted fee or tax, a new or amended form prescribed by the Division, or any other
30 change applicable to a motor vehicle sold or leased by a motor vehicle dealer as defined in
31 G.S. 20-286(11) shall only apply to sales or leases made on or after the effective date of the new
32 or adjusted fee or tax, new or amended form prescribed by the Division, or other change
33 regardless of the date of submission of a title and registration application for the motor vehicle
34 to the Division. No new or adjusted fee or tax levied, new or amended form prescribed by the
35 Division, or any other change under this Chapter shall apply to a motor vehicle sale or lease made
36 prior to the effective date of the new or adjusted fee or tax, new or amended form prescribed by
37 the Division, or other change."

38 39 **EFFECTIVE DATE**

40 **SECTION 6.** This act is effective when it becomes law.