

CHAPTER 63
HOUSE BILL No. 2258

AN ACT relating to the vehicle dealers and manufacturers licensing act; providing for the licensing and regulation of certain dealers; amending K.S.A. 8-135c, 8-1,137, 8-2408, 8-2434 and 8-2436 and K.S.A. 2008 Supp. 8-2401 and 8-2404 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 8-135c is hereby amended to read as follows: 8-135c. (a) The provisions of this section shall be a part of and supplemental to the provisions of article 1 of chapter 8 of the Kansas Statutes Annotated, and as used in this section, the words and phrases defined by K.S.A. 8-126, and amendments thereto, shall have the meanings respectively ascribed to them therein.

(b) As used in this section:

(1) "Nonrepairable vehicle" means any motor vehicle which: (A) Has been damaged, destroyed, wrecked, burned or submerged in water to the extent that such motor vehicle is incapable of safe operation for use on roads or highways and has no resale value except as a source of parts or scrap only; or (B) the owner irreversibly designates as a source of parts or scrap;

(2) "nonrepairable vehicle certificate" means a motor vehicle ownership document issued by the division designating that vehicle a non-repairable vehicle.

(c) (1) Except as otherwise provided by this section, the owner of a vehicle that meets the definition of a nonrepairable vehicle shall apply to the division for a nonrepairable vehicle certificate before the ownership of the motor vehicle is transferred. In no event shall such application be made more than 30 days after the vehicle is determined to be a nonrepairable vehicle.

(2) Every insurance company, which pursuant to a damage settlement, acquires ownership of a vehicle that has incurred damage requiring the vehicle to be designated a nonrepairable vehicle, shall apply to the division for a nonrepairable vehicle certificate within 30 days after the title is assigned and delivered by the owner to the insurance company, with all liens released.

(3) Every insurance company which makes a damage settlement for a vehicle that has incurred damage requiring such vehicle to be designated a nonrepairable vehicle, but does not acquire ownership of the vehicle, shall notify the vehicle owner of the owner's obligation to apply to the department for a nonrepairable vehicle certificate for the motor vehicle, and shall notify the division of this fact in accordance with procedures established by the division. The vehicle owner shall apply to the division for a nonrepairable vehicle certificate within 30 days after being notified by the insurance company.

(4) The lessee of any vehicle which incurs damage requiring the vehicle to be designated a nonrepairable vehicle shall notify the lessor of this fact within 30 days of the determination that the vehicle is a nonrepairable vehicle.

(5) The lessor of any motor vehicle which has incurred damage requiring the vehicle to be titled as a nonrepairable vehicle, shall apply to the division for a nonrepairable vehicle certificate within 30 days after being notified of this fact by the lessee.

(6) Every person acquiring ownership of a motor vehicle that meets the definition of a nonrepairable vehicle, for which a nonrepairable vehicle certificate has not been issued, shall apply to the division for the required document prior to any further transfer of such vehicle, but in no event, more than 30 days after ownership is acquired.

(7) Failure to apply for a nonrepairable vehicle certificate as provided by this subsection shall be a class C nonperson misdemeanor.

(d) (1) Upon notification of a vehicle's designation as a nonrepairable vehicle, the division shall issue a nonrepairable vehicle certificate.

(2) Each nonrepairable vehicle certificate shall contain the same identifying information and comply with format, size and security requirements applicable to certificates of title under K.S.A. 8-135, and amendments thereto, and shall be conspicuously labeled with this designation on the face of the certificate.

(3) Each application for a nonrepairable vehicle certificate shall be

accompanied by the fee required for an original certificate of title under K.S.A. 8-135, and amendments thereto, and if the application is not made within the time prescribed by subsection (c), an additional fee of \$2.

(e) (1) No motor vehicle for which a nonrepairable vehicle certificate has been issued shall be titled or registered by the division for use on the roads or highways of this state.

(2) Ownership of the motor vehicle for which a nonrepairable vehicle certificate has been issued may only be transferred once.

(3) Any motor vehicle transferred through the use of a nonrepairable vehicle certificate shall be dismantled, disassembled or recycled and may not be sold as a unit at retail.

When the nonrepairable vehicle has been *crushed*, dismantled, disassembled or recycled and such vehicle is sold to a scrap processor for recycling after the salvageable parts have been removed, the owner shall surrender the nonrepairable vehicle certificate to the division with the word recycled written or stamped across its face and no certificate of title of any type shall be issued nor any registration allowed again for such vehicle.

(4) A nonrepairable vehicle certificate may be used to transfer ownership of a motor vehicle 10 or more model years of age, in accordance with this section, when the owner does not have a certificate of title in the owner's possession.

(f) The secretary of the department of revenue may adopt rules and regulations as the secretary deems necessary to carry out the provisions of this section.

Sec. 2. K.S.A. 8-1,137 is hereby amended to read as follows: 8-1,137.

(a) Except as provided in K.S.A. 8-135c, and amendments thereto, if any vehicle for which a certificate of title has been issued shall be *crushed*, dismantled, disassembled or recycled by selling such vehicle to a scrap processor for recycling after the salvageable parts have been removed by a licensed salvage vehicle dealer as defined in K.S.A. 8-2401, and amendments thereto, such dealer shall surrender the original or duplicate title to the division with the word salvage or junk written or stamped across its face and no certificate of title of any type shall be issued nor any registration allowed again for such vehicle.

(b) When any major component part, as defined in K.S.A. 8-2401, and amendments thereto, is sold by a licensed salvage vehicle dealer to a licensed vehicle dealer, a sales receipt and a copy of the vehicle title must accompany such major component part as proof of legal possession. Any major component part, as defined in K.S.A. 8-2401, and amendments thereto, sold by a licensed salvage dealer to any other person shall be accompanied by a bill of sale and a copy of the vehicle title as proof of legal possession of such major component part.

Sec. 3. K.S.A. 2008 Supp. 8-2401 is hereby amended to read as follows: 8-2401. As used in this act, the following words and phrases shall have the meanings:

(a) "Vehicle dealer" means any person who: (1) For commission, money or other thing of value is engaged in the business of buying, selling or offering or attempting to negotiate a sale of an interest in vehicles; or (2) for commission, money or other thing of value is engaged in the business of buying, selling or offering or attempting to negotiate a sale of an interest in motor vehicles as an auction motor vehicle dealer as defined in (bb); but does not include: (A) Receivers, trustees, administrators, executors, guardians, or other persons appointed by or acting under the judgment or order of any court, or any bank, trustee or lending company or institution which is subject to state or federal regulations as such, with regard to its disposition of repossessed vehicles; (B) public officers while performing their official duties; (C) employees of persons enumerated in provisions (A) and (B), when engaged in the specific performance of their duties as such employees; (D) auctioneers conducting auctions for persons enumerated in provisions (A), (B) or (C); or (E) auctioneers who, while engaged in conducting an auction of tangible personal property for others, offer for sale: (i) Vehicles which have been used primarily in a farm or business operation by the owner offering the vehicle for sale, including all vehicles which qualified for a farm vehicle tag at the time of sale except vehicles owned by a business engaged primarily in the business of leasing or renting passenger cars; (ii) vehicles which meet the statutory definition of antique vehicles; or (iii) vehicles for no more than four principals or households per auction. All sales of vehicles exempted pursuant

to provision (E), except truck, truck tractors, pole trailers, trailers and semitrailers as defined by K.S.A. 8-126, and amendments thereto, shall be registered in Kansas prior to the sale.

(b) “New vehicle dealer” means any vehicle dealer who is a party to an agreement, with a first or second stage manufacturer or distributor, which agreement authorizes the vehicle dealer to sell, exchange or transfer new motor vehicles, trucks, motorcycles, or trailers or parts and accessories made or sold by such first or second stage manufacturer or distributor and obligates the vehicle dealer to fulfill the warranty commitments of such first or second stage manufacturer or distributor.

(c) “Used vehicle dealer” means any person actively engaged in the business of buying, selling or exchanging used vehicles.

(d) “Vehicle salesperson” means any person who is employed as a salesperson by a vehicle dealer to sell vehicles.

(e) “Board” means the vehicle dealer review board created by this act.

(f) “Director” means the director of vehicles, or a designee of the director.

(g) “Division” means the division of vehicles of the department of revenue.

(h) “Vehicle” means every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, and is required to be registered under the provisions of article 1 of chapter 8 of Kansas Statutes Annotated, except that such term shall include micro utility trucks, as defined in K.S.A. 8-126, and amendments thereto, but shall not include motorized bicycles, and such term shall not include manufactured homes or mobile homes. As used herein, the terms “manufactured home” and “mobile home” shall have the meanings ascribed to them by K.S.A. 58-4202, and amendments thereto.

(i) “Motor vehicle” means any vehicle other than a motorized bicycle, which is self-propelled and is required to be registered under the provisions of article 1 of chapter 8 of Kansas Statutes Annotated, except that such term shall include micro utility trucks, as defined in K.S.A. 8-126, and amendments thereto.

(j) “Licensor” means the director or division or both.

(k) “First stage manufacturer” means any person who manufactures, assembles and sells new vehicles to new vehicle dealers for resale in this state.

(l) “Second stage manufacturer” means any person who assembles, installs or permanently affixes body, cab or special unit equipment to a chassis supplied by a first stage manufacturer, distributor or other supplier and sells the resulting new vehicles to new vehicle dealers for resale in this state.

(m) “First stage converter” means any person who is engaged in the business of affixing to a chassis supplied by a first stage manufacturer, distributor or other supplier, specially constructed body units to result in motor vehicles used as, but not limited to, buses, wreckers, cement trucks and trash compactors.

(n) “Second stage converter” means any person who is engaged in the business of adding to, subtracting from or modifying previously assembled or manufactured vehicles and sells the resulting converted vehicles at retail or wholesale.

(o) “Distributor” means any person who sells or distributes for resale new vehicles to new vehicle dealers in this state or who maintains distributor representatives in this state.

(p) “Wholesaler” means any person who purchases vehicles for the purpose of resale to a vehicle dealer.

(q) “Factory branch” means any branch office maintained in this state by a first or second stage manufacturer for the sale of new vehicles to distributors, or for the sale of new vehicles to new vehicle dealers, or for directing or supervising, in whole or in part, its representatives in this state.

(r) “Distributor branch” means any branch office similar to subsection (q) maintained by a distributor for the same purposes as a factory branch.

(s) “Factory representative” means a representative employed by a first or second stage manufacturer or factory branch for the purpose of making or promoting the sale of its new vehicles to new vehicle dealers, or for supervising or contacting its new vehicle dealers or prospective new

vehicle dealers with respect to the promotion and sale of such vehicles and parts or accessories for the same.

(t) "Distributor representative" means any representative similar to subsection (s) employed by a distributor or distributor branch for the same purpose as a factory representative.

(u) "Person" means any natural person, partnership, firm, corporation or association.

(v) "New motor vehicle" means any motor vehicle which has never been titled or registered and has not been substantially driven or operated.

(w) "Franchise agreement" means any contract or franchise or any other terminology used to describe the contractual relationship between first or second stage manufacturers, distributors and vehicle dealers, by which:

(1) A right is granted one party to engage in the business of offering, selling or otherwise distributing goods or services under a marketing plan or system prescribed in substantial part by the other party, and in which there is a community of interest in the marketing of goods or services at wholesale or retail, by lease, agreement or otherwise; and

(2) the operation of the grantee's business pursuant to such agreement is substantially associated with the grantor's trademark, service mark, trade name, logotype, advertising or other commercial symbol designating the grantor or an affiliate of the grantor.

(x) "Broker" means any person who, for a fee, commission, money, other thing of value, valuable consideration or benefit, either directly or indirectly, arranges or offers to arrange a transaction involving the sale of a vehicle, or is engaged in the business of: (1) Selling or buying vehicles for other persons as an agent, middleman or negotiator; or (2) bringing buyers and sellers of vehicles together, but such term shall not include any person registered as a salvage vehicle pool or any person engaged in a business in which the acts described in this subsection are only incidentally performed or which are performed or authorized within the requirements or scope of any other category of license, or not prohibited, in the manner authorized by the vehicle dealers' and manufacturers' licensing act.

(y) "Salvage vehicle dealer" means any person engaged in the business of buying, selling or exchanging used vehicles and primarily engaged in the business of the distribution at wholesale or retail of used motor vehicle parts and includes establishments primarily engaged in dismantling motor vehicles for the purpose of selling parts.

(z) "Lending agency" means any person, desiring to be licensed under this act and engaged in the business of financing or lending money to any person to be used in the purchase or financing of a vehicle.

(aa) "Established place of business" means a building or structure, other than a building or structure all or part of which is occupied or used as a residence, owned either in fee or leased and designated as an office or place to receive mail and keep records and conduct the routine of business. To qualify as an established place of business, there shall be located therein an operable telephone which shall be listed with the telephone company under the name of the licensed business, except that a vehicle dealer who derives at least 50% of such person's income from operating a farm as a resident thereof, the established place of business may be the farm residence of such vehicle dealer and the operable telephone may be located in such residence when such dealer engages only in vehicles and equipment not required to have vehicle registration to travel on a highway.

(bb) "Auction motor vehicle dealer" means any person who for commission, money or other thing of value is engaged in an auction of motor vehicles except that the sales of such motor vehicles shall involve only motor vehicles owned by licensed motor vehicle dealers and sold to licensed motor vehicle dealers, except that any auction motor vehicle dealer, registered as such and lawfully operating prior to June 30, 1980, shall be deemed to be and have been properly licensed under this act from and after July 1, 1980. For the purposes of this subsection, an auction is a private sale of motor vehicles where any and all licensed motor vehicle dealers who choose to do so are permitted to attend and offer bids and the private sale of such motor vehicles is to the highest bidder.

(cc) "Licensee" means any person issued a valid license pursuant to this act.

(dd) “Dealer” means a vehicle dealer as defined by this act, unless the context otherwise requires.

(ee) “Insurance company” means any person desiring to be licensed under this act and engaged in the business of writing or servicing insurance related to vehicles.

(ff) “Supplemental place of business” means a business location other than that of the established place of business of the dealer which may be operated by the dealer on a continuous year-round basis and, for new vehicle dealers, is within the defined area of responsibility in their franchise agreement, and for all other dealers is within the same city or county where the established place of business of the dealer is operated.

(gg) “Salvage yard” means the place owned or leased and regularly occupied by a person, firm or corporation licensed under the provisions of this act for the principal purpose of engaging in the business of a salvage vehicle dealer. Salvage yard shall include the location where the:

- (1) Products for sale are displayed and offered for sale;
- (2) books and records required for the conduct of the business are maintained;
- (3) records are kept in the normal daily business activity; and
- (4) records are made available for inspection.

(hh) “Salvage vehicle pool” means any person who as an agent for a third party is primarily engaged in the business of storing, displaying and offering for sale salvage vehicles.

(ii) “Major component part” means any vehicle part including the front clip, rear clip, doors, frame, chassis, engine, transmission, transaxle, cab, bed and box bearing the public vehicle identification number or engine number, if manufactured prior to 1981; or any vehicle part bearing a derivative of such number.

(jj) “Recreational motor vehicle” means a recreational vehicle as defined by subsection (f) of K.S.A. 75-1212, and amendments thereto.

(kk) “Vehicle crusher” means any person, other than a vehicle recycler or a scrap metal recycler, who engages in the business of flattening, crushing or otherwise processing nonrepairable vehicles for recycling. Vehicle crushers include, but are not limited to, persons who use fixed or mobile equipment to flatten or crush nonrepairable vehicles for a vehicle recycler or a scrap metal recycler.

(ll) “Vehicle recycler” means a person who engages in the business of acquiring, dismantling, removing parts from or destroying nonrepairable vehicles for the primary purpose of reselling the vehicle parts.

(mm) “Scrap metal recycler” means a person who engages in the business of shredding or otherwise processing nonrepairable vehicles or other scrap metal into prepared grades and whose principal product is scrap iron, scrap steel or nonferrous metallic scrap for sale for remelting purposes.

(nn) “Nonrepairable vehicle” means any motor vehicle which: (1) Has been damaged, destroyed, wrecked, burned or submerged in water to the extent that such motor vehicle is incapable of safe operation for use on roads or highways and has no resale value except as a source of parts or scrap only; or (2) the owner irreversibly designates as a source of parts or scrap.

(oo) “Rebuilder” means a person who is engaged in the business of rebuilding salvage vehicles, as defined in K.S.A. 8-196, and amendments thereto, and selling such rebuilt salvage vehicles.

Sec. 4. K.S.A. 2008 Supp. 8-2404 is hereby amended to read as follows: 8-2404. (a) No vehicle dealer shall engage in business in this state without obtaining a license as required by this act. Any vehicle dealer holding a valid license and acting as a vehicle salesperson shall not be required to secure a salesperson’s license.

(b) No first stage manufacturer, second stage manufacturer, factory branch, factory representative, distributor branch or distributor representative shall engage in business in this state without a license as required by this act, regardless of whether or not an office or other place of business is maintained in this state for the purpose of conducting such business.

(c) An application for a license shall be made to the director and shall contain the information provided for by this section, together with such other information as may be deemed reasonable and pertinent, and shall be accompanied by the required fee. The director may require in the application, or otherwise, information relating to the applicant’s solvency,

financial standing, or other pertinent matter commensurate with the safeguarding of the public interest in the locality in which the applicant proposes to engage in business, all of which may be considered by the director in determining the fitness of the applicant to engage in business as set forth in this section. The director may require the applicant for licensing to appear at such time and place as may be designated by the director for examination to enable the director to determine the accuracy of the facts contained in the written application, either for initial licensure or renewal thereof. Every application under this section shall be verified by the applicant.

(d) All licenses shall be granted or refused within 30 days after application is received by the director. All licenses, except licenses issued to salespersons, shall expire, unless previously suspended or revoked, on December 31 of the calendar year for which they are granted, except that where a complaint respecting the cancellation, termination or nonrenewal of a sales agreement is in the process of being heard, no replacement application shall be considered until a final order is issued by the director. Applications for renewals, except for renewals of licenses issued to salespersons, received by the director after February 15 shall be considered as new applications. All salespersons' licenses issued on or after January 1, 1987, shall expire on June 30, 1988, and thereafter shall expire, unless previously suspended or revoked, on June 30 of the calendar year for which they are granted. Applications for renewals of salespersons' licenses received by the director after July 15 shall be considered as new applications. All licenses for supplemental places of business existing or issued on or after January 1, 1994, shall expire on December 31, 1994, unless previously expired, suspended or revoked, and shall thereafter expire on December 31 of the calendar year for which they are granted, unless previously suspended or revoked.

(e) License fees for each calendar year, or any part thereof shall be as follows:

- (1) For new vehicle dealers, \$75;
- (2) for distributors, \$75;
- (3) for wholesalers, \$75;
- (4) for distributor branches, \$75;
- (5) for used vehicle dealers, \$75;
- (6) for first and second stage manufacturers, \$225 plus \$75 for each factory branch in this state;
- (7) for factory representatives, \$50;
- (8) for distributor representatives, \$50;
- (9) for brokers, \$75;
- (10) for lending agencies, \$50;
- (11) for first and second stage converters, \$50;
- (12) for salvage vehicle dealers, \$75;
- (13) for auction motor vehicle dealers, \$75;
- (14) for vehicle salesperson, \$25; ~~and~~
- (15) for insurance companies, \$75;
- (16) *for vehicle crusher, \$75;*
- (17) *for vehicle recycler, \$75;*
- (18) *for scrap metal recycler, \$75;*
- (19) *for rebuilders, \$75; and*
- (20) *for salvage vehicle pool, \$75.*

Any new vehicle dealer who is also licensed as a used vehicle dealer shall be required to pay only one \$75 fee for both licenses.

(f) Dealers may establish approved supplemental places of business within the same county of their licensure or, with respect to new vehicle dealers, within their area of responsibility as defined in their franchise agreement. Those doing so shall be required to pay a supplemental license fee of \$35. In addition to any other requirements, new vehicle dealers seeking to establish supplemental places of business shall also comply with the provisions of K.S.A. 8-2430 through 8-2432, and amendments thereto. A new vehicle dealer establishing a supplemental place of business in a county other than such dealer's county of licensure but within such dealer's area of responsibility as defined in such dealer's franchise agreement shall be licensed only to do business as a new motor vehicle dealer in new motor vehicles at such supplemental place of business. Original inspections by the division of a proposed established place of business shall be made at no charge except that a \$30 fee shall be charged by the division for each additional inspection the division must make of such

premises in order to approve the same.

(g) The license of all persons licensed under the provisions of this act shall state the address of the established place of business, office, branch or supplemental place of business and must be conspicuously displayed therein. The director shall endorse a change of address on a license without charge if: (1) The change of address of an established place of business, office, branch or supplemental place of business is within the same county; or (2) the change of address of a supplemental place of business, with respect to a new vehicle dealer, is within such dealer's area of responsibility as defined in their franchise agreement. A change of address of the established place of business, office or branch to a different county shall require a new license and payment of the required fees but such new license and fees shall not be required for a change of address of a supplemental place of business, with respect to a new vehicle dealer, to a different county but within the dealer's area of responsibility as defined in their franchise agreement.

(h) Every salesperson, factory representative or distributor representative shall carry on their person a certification that the person holds a valid state license. The certification shall name the person's employer and shall be displayed upon request. An original copy of the state license for a vehicle salesperson shall be mailed or otherwise delivered by the division to the employer of the salesperson for public display in the employer's established place of business. When a salesperson ceases to be employed as such, the former employer shall mail or otherwise return the original copy of the employee's state license to the division. A salesperson, factory representative or distributor representative who terminates employment with one employer may file an application with the director to transfer the person's state license in the name of another employer. The application shall be accompanied by a \$12 transfer fee. A salesperson, factory representative or distributor representative who terminates employment, and does not transfer the state license, shall mail or otherwise return the certification that the person holds a valid state license to the division.

(i) If the director has reasonable cause to doubt the financial responsibility or the compliance by the applicant or licensee with the provisions of this act, the director may require the applicant or licensee to furnish and maintain a bond in such form, amount and with such sureties as the director approves, but such amount shall be not less than \$5,000 nor more than \$20,000, conditioned upon the applicant or licensee complying with the provisions of the statutes applicable to the licensee and as indemnity for any loss sustained by a retail or wholesale buyer or seller of a vehicle by reason of any act by the licensee constituting grounds for suspension or revocation of the license. Every applicant or licensee who is or applies to be a used vehicle dealer or a new vehicle dealer shall furnish and maintain a bond in such form, amount and with such sureties as the director approves, conditioned upon the applicant or licensee complying with the provisions of the statutes applicable to the licensee and as indemnity for any loss sustained by a retail or wholesale buyer or seller of a vehicle by reason of any act by the licensee in violation of any act which constitutes grounds for suspension or revocation of the license. The amount of such bond shall be as follows: (1) For any new applicant \$30,000; or (2) for any current licensee, \$15,000, until the renewal date of the existing bond, then \$30,000, except that on and after January 1, 2003, the amount of such bond shall be \$30,000. To comply with this subsection, every bond shall be a corporate surety bond issued by a company authorized to do business in the state of Kansas and shall be executed in the name of the state of Kansas for the benefit of any aggrieved retail or wholesale buyer or seller of a vehicle. The aggregate liability of the surety for all breaches of the conditions of the bond in no event shall exceed the amount of such bond. The surety on the bond shall have the right to cancel the bond by giving 30 days' notice to the director, and thereafter the surety shall be relieved of liability for any breach of condition occurring after the effective date of cancellation. Bonding requirements shall not apply to first or second stage manufacturers, factory branches, factory representatives or salespersons. Upon determination by the director that a judgment from a Kansas court of competent jurisdiction is a final judgment and that the judgment resulted from an act in violation of this act or would constitute grounds for suspension, revocation, refusal to renew a license or administrative fine pursuant to K.S.A.

8-2411, and amendments thereto, the proceeds of the bond on deposit or in lieu of bond provided by subsection (j), shall be paid. The determination by the director under this subsection is hereby specifically exempted from the Kansas administrative procedure act (K.S.A. 77-501 through 77-549, and amendments thereto,) and the act for judicial review and civil enforcement of agency actions (K.S.A. 77-601 through 77-627, and amendments thereto). Any proceeding to enforce payment against a surety following a determination by the director shall be prosecuted by the judgment creditor named in the final judgment sought to be enforced. Upon a finding by the court in such enforcement proceeding that a surety has wrongfully failed or refused to pay, the court shall award reasonable attorney fees to the judgment creditor.

(j) An applicant or licensee may elect to satisfy the bonding requirements of subsection (i) by depositing with the state treasurer cash, negotiable bonds of the United States or of the state of Kansas or negotiable certificates of deposit of any bank organized under the laws of the United States or of the state of Kansas. On or after January 1, 2003, the amount of cash, negotiable bonds of the United States or of the state of Kansas or negotiable certificates of deposit of any bank organized under the laws of the United States or of the state of Kansas deposited with the state treasurer shall be in an amount of no less than \$30,000. When negotiable bonds or negotiable certificates of deposit have been deposited with the state treasurer to satisfy the bonding requirements of subsection (i), such negotiable bonds or negotiable certificates of deposit shall remain on deposit with the state treasurer for a period of not less than two years after the date of delivery of the certificate of title to the motor vehicle which was the subject of the last motor vehicle sales transaction in which the licensee engaged prior to termination of the licensee's license. In the event a licensee elects to deposit a surety bond in lieu of the negotiable bonds or negotiable certificates of deposit previously deposited with the state treasurer, the state treasurer shall not release the negotiable bonds or negotiable certificates of deposits until at least two years after the date of delivery of the certificate of title to the motor vehicle which was the subject of the last motor vehicle sales transaction in which the licensee engaged prior to the date of the deposit of the surety bond. The cash deposit or market value of any such securities shall be equal to or greater than the amount of the bond required for the bonded area and any interest on those funds shall accrue to the benefit of the depositor.

(k) No license shall be issued by the director to any person to act as a new or used dealer, wholesaler, broker, salvage vehicle dealer, auction motor vehicle dealer, *vehicle crusher*, *vehicle recycler*, *rebuilder*, *scrap metal recycler*, *salvage vehicle pool*, second stage manufacturer, first stage converter, second stage converter or distributor unless the applicant for the vehicle dealer's license maintains an established place of business which has been inspected and approved by the division. First stage manufacturers, factory branches, factory representatives, distributor branches, distributor representatives and lending agencies are not required to maintain an established place of business to be issued a license.

(l) Dealers required under the provisions of this act to maintain an established place of business shall own or have leased and use sufficient lot space to display vehicles at least equal in number to the number of dealer license plates the dealer has had assigned.

(m) A sign with durable lettering at least 10 inches in height and easily visible from the street identifying the established place of business shall be displayed by every vehicle dealer. Notwithstanding the other provisions of this subsection, the height of lettering of the required sign may be less than 10 inches as necessary to comply with local zoning regulations.

(n) If the established or supplemental place of business or lot is zoned, approval must be secured from the proper zoning authority and proof that the use complies with the applicable zoning law, ordinance or resolution must be furnished to the director by the applicant for licensing.

(o) An established or supplemental place of business, otherwise meeting the requirements of this act may be used by a dealer to conduct more than one business, provided that suitable space and facilities exist therein to properly conduct the business of a vehicle dealer.

(p) If a supplemental place of business is not operated on a continuous, year-round basis, the dealer shall give the department 15 days' notice as to the dates on which the dealer will be engaged in business at the

supplemental place of business.

(q) Any vehicle dealer selling, exchanging or transferring or causing to be sold, exchanged or transferred new vehicles in this state must satisfactorily demonstrate to the director that such vehicle dealer has a bona fide franchise agreement with the first or second stage manufacturer or distributor of the vehicle, to sell, exchange or transfer the same or to cause to be sold, exchanged or transferred.

No person may engage in the business of buying, selling or exchanging new motor vehicles, either directly or indirectly, unless such person holds a license issued by the director for the make or makes of new motor vehicles being bought, sold or exchanged, or unless a person engaged in such activities is not required to be licensed or acts as an employee of a licensee and such acts are only incidentally performed. For the purposes of this section, engaged in the business of buying, selling or exchanging new motor vehicles, either directly or indirectly, includes: (1) Displaying new motor vehicles on a lot or showroom; (2) advertising new motor vehicles, unless the person's business primarily includes the business of broadcasting, printing, publishing or advertising for others in their own names; or (3) regularly or actively soliciting or referring buyers for new motor vehicles.

(r) No person may engage in the business of buying, selling or exchanging used motor vehicles, either directly or indirectly, unless such person holds a license issued by the director for used motor vehicles being bought, sold or exchanged, or unless a person engaged in such activities is not required to be licensed or acts as an employee of a licensee and such acts are only incidentally performed. For the purposes of this section, engaged in the business of buying, selling or exchanging used motor vehicles, either directly or indirectly, includes: (1) Displaying used motor vehicles on a lot or showroom; (2) advertising used motor vehicles, unless the person's business primarily includes the business of broadcasting, printing, publishing or advertising for others in their own names; or (3) regularly or actively soliciting buyers for used motor vehicles.

(s) The director of vehicles shall publish a suitable Kansas vehicle salesperson's manual. Before a vehicle salesperson's license is issued, the applicant for an original license or renewal thereof shall be required to pass a written examination based upon information in the manual.

(t) No new license shall be issued nor any license renewed to any person to act as a salvage vehicle dealer until the division has received evidence of compliance with the junkyard and salvage control act as set forth in K.S.A. 68-2201 et seq., and amendments thereto.

(u) On and after the effective date of this act, no person shall act as a broker in the advertising, buying or selling of any new or used motor vehicle. Nothing herein shall be construed to prohibit a person duly licensed under the requirements of this act from acting as a broker in buying or selling a recreational vehicle as defined by subsection (f) of K.S.A. 75-1212, and amendments thereto, when the recreational vehicle subject to sale or purchase is a used recreational vehicle which has been previously titled and independently owned by another person for a period of 45 days or more, or is a new or used recreational vehicle repossessed by a creditor holding security in such vehicle.

(v) Nothing herein shall be construed to prohibit a person not otherwise required to be licensed under this act from selling such person's own vehicle as an isolated and occasional sale.

Sec. 5. K.S.A. 8-2408 is hereby amended to read as follows: 8-2408. Except as hereinafter provided, every person licensed as a dealer under provisions of this act shall:

(a) On or before the 20th day of each month, file a monthly report, on a form prescribed and furnished by the division of vehicles, listing all sales or transfers, except sales or transfers by a first or second stage manufacturer to a vehicle dealer of new or used vehicles, including the name and address of the purchaser or transferee, date of sale, the serial or identification number of the vehicle, and such other information as the division may require.

(b) Salvage vehicle dealers, *vehicle crusher*, *vehicle recycler*, *re-builder*, *scrap metal recycler* and *salvage vehicle pool* shall, in addition to their monthly sales report for used vehicles, if applicable, *on or before the 20th day of each month* file a ~~quarterly~~ *monthly* report on a form prescribed and furnished by the division, listing all vehicles for which the major component part containing the vehicle identification number or

engine number if manufactured prior to 1981, has been disposed of or sold. The certificate of title or transfer certificate for all vehicles listed must accompany the ~~quarterly~~ *monthly* report.

(c) Make available during regular business hours to any employee of the division or any member of ~~the highway patrol~~ *law enforcement* for the purpose of investigation or inspection, all records concerning vehicles purchased, sold or exchanged during the preceding 12 months, including certificates of title on all vehicles owned by the dealership, except those titles surrendered pursuant to subsection (b).

(d) Whenever a dealer sells or otherwise disposes of such dealer's business, or for any reason suspends or goes out of business as a dealer, such dealer shall notify the division and return the dealer's license and dealer plates, and the division upon receipt of such notice and plates shall cancel the dealer's license, except that such dealer may, upon payment of 50% of the annual fee to the division, have the license and dealer plates assigned to the purchaser of the business.

(e) In addition to the requirements of subsection (a), any dealer paying a commission or fee to a broker shall report to the division, on the monthly sales report, the name of the broker and the broker's license number.

(f) Dealers, licensed as brokers must in addition to the requirements of subsection (a) include on the monthly sales reports, the name of the seller, the transferor or dealer that owns the vehicle and whether the seller or the purchaser paid the broker's fee or commission.

(g) Lending agencies licensed under this act, which sell two or less repossessed vehicles a month, shall not be required to file the monthly reports under subsection (a), except that such lending agencies shall report annually, on a form prescribed and furnished by the division, the total number of sales or transfers of such vehicles.

Sec. 6. K.S.A. 8-2434 is hereby amended to read as follows: 8-2434. It shall be unlawful and constitute a misdemeanor, punishable by a fine not to exceed \$2,500, for any person to do business as a motor vehicle dealer, salvage vehicle dealer, motor vehicle manufacturer, motor vehicle converter, auction motor vehicle dealer, *vehicle crusher, vehicle recycler, rebuilder, scrap metal recycler, salvage vehicle pool* or salesperson without a license issued by the director. The isolated or occasional sale of a vehicle by a person who owned such vehicle shall not constitute the doing of business as a vehicle dealer.

Sec. 7. K.S.A. 8-2436 is hereby amended to read as follows: 8-2436. (a) A salvage vehicle pool shall ~~register with the division and shall pay a one-time registration fee of \$50~~ *be licensed in accordance with the provisions of this act.*

(b) A salvage vehicle pool shall have available on the premises a certificate of title or a facsimile or photocopy of the complete title of a salvage vehicle sold by the salvage vehicle pool.

(c) The provisions of this section shall be part of and supplemental to the vehicle dealers and manufacturers licensing act.

Sec. 8. K.S.A. 8-135c, 8-1,137, 8-2408, 8-2434 and 8-2436 and K.S.A. 2008 Supp. 8-2401 and 8-2404 are hereby repealed.

Sec. 9. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 7, 2009.
