

1 SENATE BILL NO. 116

2 INTRODUCED BY NELSON

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING AN APPLICANT FOR A USED MOTOR VEHICLE
5 DEALER'S LICENSE TO MAINTAIN A PERMANENT NONRESIDENTIAL BUILDING FOR RECORDKEEPING
6 AND SALES WITHIN 1,000 FEET OF THE LOT WHERE MOTOR VEHICLES ARE DISPLAYED; AND
7 AMENDING SECTION 61-4-101, MCA."

8
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10
11 **Section 1.** Section 61-4-101, MCA, is amended to read:

12 **"61-4-101. Application for dealer's license or wholesaler's license.** (1) (a) A verified application
13 for licensure as a dealer or wholesaler must be filed, by mail or otherwise, in the office of the department
14 by each person, firm, corporation, or association that, for commission or profit, engages in:

15 (i) the business of buying, selling, exchanging, taking for consignment, or acting as a broker of new
16 motor vehicles, recreational vehicles, used motor vehicles, trailers (except trailers having an unloaded
17 weight of less than 500 pounds), semitrailers, mobile homes, or special mobile equipment as defined in
18 61-1-104; or

19 (ii) business as a wholesaler as defined in 61-1-319.

20 (b) A licensed real estate broker or agent lawfully buying, selling, exchanging, taking for
21 consignment, or acting as a broker of mobile homes is exempt from licensure under this section.

22 (c) The sale of more than three motor vehicles or the offering for sale of more than three motor
23 vehicles, if the motor vehicles are not titled in the seller's name, in any 4 calendar year is prima facie
24 evidence that a person is engaged in the business of dealing motor vehicles. Licensed wholesalers do not
25 have the privilege of the use of dealer license plates as provided in subsection (2)(b) but are authorized to
26 display and use demonstrator plates under the provisions of 61-4-102(2)(a)(ii).

27 (d) Each license application and all of the information contained in it must be verified by the
28 department or an authorized representative of the department on a form to be furnished by the department
29 for that purpose and must contain the information required. Each application must be accompanied by the
30 license fee specified in 61-4-102. A dealer's or wholesaler's license must be renewed and paid for annually,

1 and an application for relicensure must be filed not later than January 1 of each year. If an application for
2 renewal of a license has been received by the department prior to the expiration of the license, the licensee
3 may operate the business and display dealer or demonstrator plates under the expired license between
4 January 1 and February 15 following expiration.

5 (2) To qualify for licensure and the issuance and use of "D", "UD", "RV", "DTR", or "MCD" plates
6 as provided in this subsection, the applicant ~~must~~ shall furnish the following information and qualify under
7 the following provisions:

8 (a) To qualify as a new motor vehicle dealer and for the use of "D" plates, the applicant ~~must~~ shall:

9 (i) state the name under which the business is to be conducted and the location of the premises
10 (street address, city, county, and state) where records are kept, sales are made, and stock of motor
11 vehicles is displayed;

12 (ii) state the name and address of all owners or persons having an interest in the business, provided
13 that in the case of a corporation, the names and addresses of the president and secretary are sufficient;

14 (iii) state the name and make of all motor vehicles handled and the name and address of the
15 manufacturer, importer, or distributor with whom the applicant has a written new motor vehicle franchise
16 or sales agreement;

17 (iv) execute a certificate to the effect that the applicant has a permanent building for the display
18 and sale of new motor vehicles at the location of the premises where sales are conducted;

19 (v) execute a certificate to the effect that the applicant has a bona fide service department for the
20 repair, service, and maintenance of motor vehicles; and

21 (vi) execute a certificate to the effect that the applicant is a bona fide dealer in new motor vehicles
22 and that the dealer is recognized by a manufacturer, importer, or distributor as a dealer in new motor
23 vehicles.

24 (b) To qualify as a used motor vehicle dealer and for the use of "UD" plates; as a recreational
25 vehicle dealer and for the use of "RV" plates; as a trailer, semitrailer, or special mobile equipment dealer
26 and for the use of "DTR" plates; as a motorcycle or quadricycle dealer and for the use of "MCD" plates;
27 or as a wholesaler and for the use of demonstrator plates, the applicant shall, in addition to the matters set
28 forth in subsections (2)(a)(i) and (2)(a)(ii), provide:

29 (i) a statement that the:

30 (A) applicant has an established place of business that includes a lot or lots upon which motor

1 vehicles may be displayed and a permanent nonresidential building on or ~~contiguous~~ within 1,000 feet of
 2 ~~to~~ the lot or lots where records are kept and sales are made; or

3 (B) wholesaler applicant has an established place of business that includes a permanent
 4 nonresidential building or office where records are kept in order that those records may be inspected;

5 (ii) a certificate to the effect that the applicant is a bona fide dealer or wholesaler in used motor
 6 vehicles, recreational vehicles, trailers, semitrailers, special mobile equipment, motorcycles, or quadricycles.
 7 An applicant for a recreational vehicle dealer license shall also indicate on the same certificate that the
 8 person is recognized by a manufacturer, importer, or distributor as a dealer in recreational vehicles.

9 (c) If two or more vehicle ~~dealer~~ dealers or wholesaler businesses share a location, all records,
 10 office facilities, and inventory, if applicable, must be physically segregated and clearly identified. Each
 11 applicant's established place of business ~~shall~~ must display a sign that indicates the firm name and that
 12 vehicles are offered for sale. The letters of the sign must be clearly visible and readable to the major avenue
 13 of traffic at a minimum distance of 150 feet.

14 (d) To qualify for a used motor vehicle dealer's or wholesaler's license, a person shall submit an
 15 annual application for that license and comply with the provisions of 61-4-102(5) in addition to fulfilling the
 16 requirements of subsection (2)(b).

17 (e) The provisions of subsection (2)(d) do not apply to an applicant who is licensed as a motor
 18 vehicle wrecking facility under the provisions of Title 75, chapter 10, part 5.

19 (3) (a) The applicant for a dealer's or wholesaler's license shall also file with ~~his~~ the application a
 20 bond of \$25,000 for a license as a new motor vehicle dealer, a used motor vehicle dealer, a recreational
 21 vehicle dealer, a trailer dealer, or a wholesaler. However, applicants for a license as a trailer dealer or a
 22 trailer wholesaler shall file the \$25,000 surety bond only if special mobile equipment, commercial trailers
 23 and semitrailers exceeding 6,000 pounds maximum gross loaded weight, mobile homes, or house trailers
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 25 bond in the sum of \$10,000. All bonds must be conditioned that the applicant shall conduct the business
 26 in accordance with the requirements of the law. All bonds must run to the state of Montana, must be
 27 approved by the department and filed in its office, and must be renewed annually.

28 (b) A person who suffers loss or damage due to the unlawful conduct of a dealer or wholesaler
 29 licensed under this section shall obtain a judgment from a court of competent jurisdiction prior to collecting
 30 on the bond. The judgment must determine a specific loss or damage amount and conclude that the

- 1 licensee's unlawful operation caused the loss or damage before payment on the bond is required."
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 16 annual application for that license and comply with the provisions of 61-4-102(5) in addition to fulfilling the
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4 NEW SECTION. SECTION 2. EFFECTIVE DATE. [THIS ACT] IS EFFECTIVE ON PASSAGE AND
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THIRD READING

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4 NEW SECTION. SECTION 2. EFFECTIVE DATE. [THIS ACT] IS EFFECTIVE ON PASSAGE AND
5 APPROVAL.

6

-END-

SENATE BILL NO. 116

INTRODUCED BY NELSON

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING AN APPLICANT FOR A USED MOTOR VEHICLE DEALER'S LICENSE TO MAINTAIN A PERMANENT NONRESIDENTIAL BUILDING FOR RECORDKEEPING AND SALES WITHIN 1,000 FEET OF THE LOT WHERE MOTOR VEHICLES ARE DISPLAYED; ~~AND~~ AMENDING SECTION 61-4-101, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 61-4-101, MCA, is amended to read:

"61-4-101. Application for dealer's license or wholesaler's license. (1) (a) A verified application for licensure as a dealer or wholesaler must be filed, by mail or otherwise, in the office of the department by each person, firm, corporation, or association that, for commission or profit, engages in:

(i) the business of buying, selling, exchanging, taking for consignment, or acting as a broker of new motor vehicles, recreational vehicles, used motor vehicles, trailers (except trailers having an unloaded weight of less than 500 pounds), semitrailers, mobile homes, or special mobile equipment as defined in 61-1-104; or

(ii) business as a wholesaler as defined in 61-1-319.

(b) A licensed real estate broker or agent lawfully buying, selling, exchanging, taking for consignment, or acting as a broker of mobile homes is exempt from licensure under this section.

(c) The sale of more than three motor vehicles or the offering for sale of more than three motor vehicles, if the motor vehicles are not titled in the seller's name, in any 4 calendar year is prima facie evidence that a person is engaged in the business of dealing motor vehicles. Licensed wholesalers do not have the privilege of the use of dealer license plates as provided in subsection (2)(b) but are authorized to display and use demonstrator plates under the provisions of 61-4-102(2)(a)(iii).

(d) Each license application and all of the information contained in it must be verified by the department or an authorized representative of the department on a form to be furnished by the department for that purpose and must contain the information required. Each application must be accompanied by the license fee specified in 61-4-102. A dealer's or wholesaler's license must be renewed and paid for annually.

1 and an application for relicensure must be filed not later than January 1 of each year. If an application for
2 renewal of a license has been received by the department prior to the expiration of the license, the licensee
3 may operate the business and display dealer or demonstrator plates under the expired license between
4 January 1 and February 15 following expiration.

5 (2) To qualify for licensure and the issuance and use of "D", "UD", "RV", "DTR", or "MCD" plates
6 as provided in this subsection, the applicant ~~must~~ shall furnish the following information and qualify under
7 the following provisions:

8 (a) To qualify as a new motor vehicle dealer and for the use of "D" plates, the applicant ~~must~~ shall:

9 (i) state the name under which the business is to be conducted and the location of the premises
10 (street address, city, county, and state) where records are kept, sales are made, and stock of motor
11 vehicles is displayed;

12 (ii) state the name and address of all owners or persons having an interest in the business, provided
13 that in the case of a corporation, the names and addresses of the president and secretary are sufficient;

14 (iii) state the name and make of all motor vehicles handled and the name and address of the
15 manufacturer, importer, or distributor with whom the applicant has a written new motor vehicle franchise
16 or sales agreement;

17 (iv) execute a certificate to the effect that the applicant has a permanent building for the display
18 and sale of new motor vehicles at the location of the premises where sales are conducted;

19 (v) execute a certificate to the effect that the applicant has a bona fide service department for the
20 repair, service, and maintenance of motor vehicles; and

21 (vi) execute a certificate to the effect that the applicant is a bona fide dealer in new motor vehicles
22 and that the dealer is recognized by a manufacturer, importer, or distributor as a dealer in new motor
23 vehicles.

24 (b) To qualify as a used motor vehicle dealer and for the use of "UD" plates; as a recreational
25 vehicle dealer and for the use of "RV" plates; as a trailer, semitrailer, or special mobile equipment dealer
26 and for the use of "DTR" plates; as a motorcycle or quadricycle dealer and for the use of "MCD" plates;
27 or as a wholesaler and for the use of demonstrator plates, the applicant shall, in addition to the matters set
28 forth in subsections (2)(a)(i) and (2)(a)(ii), provide:

29 (i) a statement that the:

30 (A) applicant has an established place of business ~~that includes a lot or lots~~ CONSISTING OF ONE

1 OR MORE LOTS LOCATED WITHIN 200 FEET OF EACH OTHER upon which motor vehicles may be
2 displayed and a permanent nonresidential building on or ~~contiguous~~ within 1,000 feet of ~~to~~ the lot or lots
3 where records are kept and sales are made; or

4 (B) wholesaler applicant has an established place of business that includes a permanent
5 nonresidential building or office where records are kept in order that those records may be inspected;

6 (ii) a certificate to the effect that the applicant is a bona fide dealer or wholesaler in used motor
7 vehicles, recreational vehicles, trailers, semitrailers, special mobile equipment, motorcycles, or quadricycles.

8 An applicant for a recreational vehicle dealer license shall also indicate on the same certificate that the
9 person is recognized by a manufacturer, importer, or distributor as a dealer in recreational vehicles.

10 (c) If two or more vehicle ~~dealer~~ dealers or wholesaler businesses share a location, all records,
11 office facilities, and inventory, if applicable, must be physically segregated and clearly identified. Each
12 applicant's established place of business ~~shall~~ must display a sign that indicates the firm name and that
13 vehicles are offered for sale. The letters of the sign must be clearly visible and readable to the major avenue
14 of traffic at a minimum distance of 150 feet.

15 (d) To qualify for a used motor vehicle dealer's or wholesaler's license, a person shall submit an
16 annual application for that license and comply with the provisions of 61-4-102(5) in addition to fulfilling the
17 requirements of subsection (2)(b).

18 (e) The provisions of subsection (2)(d) do not apply to an applicant who is licensed as a motor
19 vehicle wrecking facility under the provisions of Title 75, chapter 10, part 5.

20 (3) (a) The applicant for a dealer's or wholesaler's license shall also file with ~~his~~ the application a
21 bond of \$25,000 for a license as a new motor vehicle dealer, a used motor vehicle dealer, a recreational
22 vehicle dealer, a trailer dealer, or a wholesaler. However, applicants for a license as a trailer dealer or a
23 trailer wholesaler shall file the \$25,000 surety bond only if special mobile equipment, commercial trailers
24 and semitrailers exceeding 6,000 pounds maximum gross loaded weight, mobile homes, or house trailers
25 are sold; otherwise, all other trailer dealer, motorcycle dealer, or wholesaler license applicants shall file a
26 bond in the sum of \$10,000. All bonds must be conditioned that the applicant shall conduct the business
27 in accordance with the requirements of the law. All bonds must run to the state of Montana, must be
28 approved by the department and filed in its office, and must be renewed annually.

29 (b) A person who suffers loss or damage due to the unlawful conduct of a dealer or wholesaler
30 licensed under this section shall obtain a judgment from a court of competent jurisdiction prior to collecting

1 on the bond. The judgment must determine a specific loss or damage amount and conclude that the
2 licensee's unlawful operation caused the loss or damage before payment on the bond is required."

3

4 NEW SECTION. SECTION 2. EFFECTIVE DATE. [THIS ACT] IS EFFECTIVE ON PASSAGE AND

5 APPROVAL.

6

-END-