

1 AN ACT to amend the Illinois Vehicle Code by changing
2 Sections 5-101 and 5-102.

3 Be it enacted by the People of the State of Illinois,
4 represented in the General Assembly:

5 Section 5. The Illinois Vehicle Code is amended by
6 changing Sections 5-101 and 5-102 as follows:

7 (625 ILCS 5/5-101) (from Ch. 95 1/2, par. 5-101)

8 Sec. 5-101. New vehicle dealers must be licensed.

9 (a) No person shall engage in this State in the business
10 of selling or dealing in, on consignment or otherwise, new
11 vehicles of any make, or act as an intermediary or agent or
12 broker for any licensed dealer or vehicle purchaser other
13 than as a salesperson, or represent or advertise that he is
14 so engaged or intends to so engage in such business unless
15 licensed to do so in writing by the Secretary of State under
16 the provisions of this Section.

17 (b) An application for a new vehicle dealer's license
18 shall be filed with the Secretary of State, duly verified by
19 oath, on such form as the Secretary of State may by rule or
20 regulation prescribe and shall contain:

21 1. The name and type of business organization of
22 the applicant and his established and additional places
23 of business, if any, in this State.

24 2. If the applicant is a corporation, a list of its
25 officers, directors, and shareholders having a ten
26 percent or greater ownership interest in the corporation,
27 setting forth the residence address of each; if the
28 applicant is a sole proprietorship, a partnership, an
29 unincorporated association, a trust, or any similar form
30 of business organization, the name and residence address
31 of the proprietor or of each partner, member, officer,

1 director, trustee, or manager.

2 3. The make or makes of new vehicles which the
3 applicant will offer for sale at retail in this State.

4 4. The name of each manufacturer or franchised
5 distributor, if any, of new vehicles with whom the
6 applicant has contracted for the sale of such new
7 vehicles. As evidence of this fact, the application shall
8 be accompanied by a signed statement from each such
9 manufacturer or franchised distributor. If the applicant
10 is in the business of offering for sale new conversion
11 vehicles, trucks or vans, except for trucks modified to
12 serve a special purpose which includes but is not limited
13 to the following vehicles: street sweepers, fertilizer
14 spreaders, emergency vehicles, implements of husbandry or
15 maintenance type vehicles, he must furnish evidence of a
16 sales and service agreement from both the chassis
17 manufacturer and second stage manufacturer.

18 5. A statement that the applicant has been approved
19 for registration under the Retailers' Occupation Tax Act
20 by the Department of Revenue: Provided that this
21 requirement does not apply to a dealer who is already
22 licensed hereunder with the Secretary of State, and who
23 is merely applying for a renewal of his license. As
24 evidence of this fact, the application shall be
25 accompanied by a certification from the Department of
26 Revenue showing that that Department has approved the
27 applicant for registration under the Retailers'
28 Occupation Tax Act.

29 6. A statement that the applicant has complied with
30 the appropriate liability insurance requirement. A
31 Certificate of Insurance in a solvent company authorized
32 to do business in the State of Illinois shall be included
33 with each application covering each location at which he
34 proposes to act as a new vehicle dealer. The policy must

1 provide liability coverage in the minimum amounts of
2 \$100,000 for bodily injury to, or death of, any person,
3 \$300,000 for bodily injury to, or death of, two or more
4 persons in any one accident, and \$50,000 for damage to
5 property. Such policy shall expire not sooner than
6 December 31 of the year for which the license was issued
7 or renewed. The expiration of the insurance policy shall
8 not terminate the liability under the policy arising
9 during the period for which the policy was filed.
10 Trailer and mobile home dealers are exempt from this
11 requirement.

12 7. (A) An application for a new motor vehicle
13 dealer's license shall be accompanied by the
14 following license fees:

15 \$100 for applicant's established place of
16 business, and \$50 for each additional place of
17 business, if any, to which the application pertains;
18 but if the application is made after June 15 of any
19 year, the license fee shall be \$50 for applicant's
20 established place of business plus \$25 for each
21 additional place of business, if any, to which the
22 application pertains. License fees shall be
23 returnable only in the event that the application is
24 denied by the Secretary of State. All moneys
25 received by the Secretary of State as license fees
26 under this Section shall be deposited into the Motor
27 Vehicle Review Board Fund and shall be used to
28 administer the Motor Vehicle Review Board under the
29 Motor Vehicle Franchise Act.

30 (B) An application for a new vehicle dealer's
31 license, other than for a new motor vehicle dealer's
32 license, shall be accompanied by the following
33 license fees:

34 \$50 for applicant's established place of

1 business, and \$25 for each additional place of
 2 business, if any, to which the application pertains;
 3 but if the application is made after June 15 of any
 4 year, the license fee shall be \$25 for applicant's
 5 established place of business plus \$12.50 for each
 6 additional place of business, if any, to which the
 7 application pertains. License fees shall be
 8 returnable only in the event that the application is
 9 denied by the Secretary of State.

10 8. A statement that the applicant's officers,
 11 directors, shareholders having a 10% or greater ownership
 12 interest therein, proprietor, a partner, member, officer,
 13 director, trustee, manager or other principals in the
 14 business have not committed in the past 3 years any one
 15 violation as determined in any civil, criminal or
 16 administrative proceedings of any one of the following
 17 Acts:

18 (A) The Anti Theft Laws of the Illinois
 19 Vehicle Code;

20 (B) The Certificate of Title Laws of the
 21 Illinois Vehicle Code;

22 (C) The Offenses against Registration and
 23 Certificates of Title Laws of the Illinois Vehicle
 24 Code;

25 (D) The Dealers, Transporters, Wreckers and
 26 Rebuilders Laws of the Illinois Vehicle Code;

27 (E) Section 21-2 of the Criminal Code of 1961,
 28 Criminal Trespass to Vehicles; or

29 (F) The Retailers' Occupation Tax Act.

30 9. A statement that the applicant's officers,
 31 directors, shareholders having a 10% or greater ownership
 32 interest therein, proprietor, partner, member, officer,
 33 director, trustee, manager or other principals in the
 34 business have not committed in any calendar year 3 or

1 more violations, as determined in any civil, criminal or
2 administrative proceedings, of any one or more of the
3 following Acts:

- 4 (A) The Consumer Finance Act;
- 5 (B) The Consumer Installment Loan Act;
- 6 (C) The Retail Installment Sales Act;
- 7 (D) The Motor Vehicle Retail Installment Sales
8 Act;
- 9 (E) The Interest Act;
- 10 (F) The Illinois Wage Assignment Act;
- 11 (G) Part 8 of Article XII of the Code of Civil
12 Procedure; or
- 13 (H) The Consumer Fraud Act.

14 10. A bond or certificate of deposit in the amount
15 of \$20,000 for each location at which the applicant
16 intends to act as a new vehicle dealer. The bond shall
17 be for the term of the license, or its renewal, for which
18 application is made, and shall expire not sooner than
19 December 31 of the year for which the license was issued
20 or renewed. The bond shall run to the People of the
21 State of Illinois, with surety by a bonding or insurance
22 company authorized to do business in this State. It
23 shall be conditioned upon the proper transmittal of all
24 title and registration fees and taxes (excluding taxes
25 under the Retailers' Occupation Tax Act) accepted by the
26 applicant as a new vehicle dealer.

27 11. Such other information concerning the business
28 of the applicant as the Secretary of State may by rule or
29 regulation prescribe.

30 12. A statement that the applicant understands
31 Chapter One through Chapter Five of this Code.

32 (c) Any change which renders no longer accurate any
33 information contained in any application for a new vehicle
34 dealer's license shall be amended within 30 days after the

1 occurrence of such change on such form as the Secretary of
2 State may prescribe by rule or regulation, accompanied by an
3 amendatory fee of \$2.

4 (d) Anything in this Chapter 5 to the contrary
5 notwithstanding no person shall be licensed as a new vehicle
6 dealer unless:

7 1. He is authorized by contract in writing between
8 himself and the manufacturer or franchised distributor of
9 such make of vehicle to so sell the same in this State,
10 and

11 2. Such person shall maintain an established place
12 of business as defined in this Act.

13 (e) The Secretary of State shall, within a reasonable
14 time after receipt, examine an application submitted to him
15 under this Section and unless he makes a determination that
16 the application submitted to him does not conform with the
17 requirements of this Section or that grounds exist for a
18 denial of the application, under Section 5-501 of this
19 Chapter, grant the applicant an original new vehicle dealer's
20 license in writing for his established place of business and
21 a supplemental license in writing for each additional place
22 of business in such form as he may prescribe by rule or
23 regulation which shall include the following:

24 1. The name of the person licensed;

25 2. If a corporation, the name and address of its
26 officers or if a sole proprietorship, a partnership, an
27 unincorporated association or any similar form of
28 business organization, the name and address of the
29 proprietor or of each partner, member, officer, director,
30 trustee or manager;

31 3. In the case of an original license, the
32 established place of business of the licensee;

33 4. In the case of a supplemental license, the
34 established place of business of the licensee and the

1 additional place of business to which such supplemental
2 license pertains;

3 5. The make or makes of new vehicles which the
4 licensee is licensed to sell.

5 (f) The appropriate instrument evidencing the license or
6 a certified copy thereof, provided by the Secretary of State,
7 shall be kept posted conspicuously in the established place
8 of business of the licensee and in each additional place of
9 business, if any, maintained by such licensee.

10 (g) Except as provided in subsection (h) hereof, all new
11 vehicle dealer's licenses granted under this Section shall
12 expire by operation of law on December 31 of the calendar
13 year for which they are granted unless sooner revoked or
14 cancelled under the provisions of Section 5-501 of this
15 Chapter.

16 (h) A new vehicle dealer's license may be renewed upon
17 application and payment of the fee required herein, and
18 submission of proof of coverage under an approved bond under
19 the "Retailers' Occupation Tax Act" or proof that applicant
20 is not subject to such bonding requirements, as in the case
21 of an original license, but in case an application for the
22 renewal of an effective license is made during the month of
23 December, the effective license shall remain in force until
24 the application is granted or denied by the Secretary of
25 State.

26 (i) All persons licensed as a new vehicle dealer are
27 required to furnish each purchaser of a motor vehicle:

28 1. In the case of a new vehicle a manufacturer's
29 statement of origin and in the case of a used motor
30 vehicle a certificate of title, in either case properly
31 assigned to the purchaser;

32 2. A statement verified under oath that all
33 identifying numbers on the vehicle agree with those on
34 the certificate of title or manufacturer's statement of

1 origin;

2 3. A bill of sale properly executed on behalf of
3 such person;

4 4. A copy of the Uniform Invoice-transaction
5 reporting return referred to in Section 5-402 hereof;

6 5. In the case of a rebuilt vehicle, a copy of the
7 Disclosure of Rebuilt Vehicle Status; and

8 6. In the case of a vehicle for which the warranty
9 has been reinstated, a copy of the warranty.

10 (j) Except at the time of sale or repossession of the
11 vehicle, no person licensed as a new vehicle dealer may issue
12 to any other person a newly created key to a vehicle unless
13 (i) the new vehicle dealer has contacted the vehicle dealer
14 from whom the vehicle was purchased and has confirmed that
15 the person requesting the newly created key is the person who
16 purchased the vehicle or (ii) that person can prove that he
17 or she is the owner or lessee of that vehicle by presenting
18 any of the following:

19 (1) The certificate of title.

20 (2) The motor vehicle registration card.

21 (3) The purchase documents or finance contract.

22 (4) The rental or lease agreement.

23 The new vehicle dealer must make a copy of the driver's
24 license or State identification card of the person requesting
25 the newly created key and must retain the copy for 6 months.

26 A new vehicle dealer who violates this subsection (j) is
27 guilty of a petty offense. Violation of this subsection (j)
28 is not cause to suspend, revoke, cancel, or deny renewal of
29 the new vehicle dealer's license.

30 This amendatory Act of 1983 shall be applicable to the
31 1984 registration year and thereafter.

32 (Source: P.A. 88-158; 89-145, eff. 7-14-95; 89-189, eff.
33 1-1-96; 89-433, eff. 12-15-95.)

1 (625 ILCS 5/5-102) (from Ch. 95 1/2, par. 5-102)

2 Sec. 5-102. Used vehicle dealers must be licensed.

3 (a) No person, other than a licensed new vehicle dealer,
4 shall engage in the business of selling or dealing in, on
5 consignment or otherwise, 5 or more used vehicles of any make
6 during the year (except house trailers as authorized by
7 paragraph (j) of this Section and rebuilt salvage vehicles
8 sold by their rebuilders to persons licensed under this
9 Chapter), or act as an intermediary, agent or broker for any
10 licensed dealer or vehicle purchaser (other than as a
11 salesperson) or represent or advertise that he is so engaged
12 or intends to so engage in such business unless licensed to
13 do so by the Secretary of State under the provisions of this
14 Section.

15 (b) An application for a used vehicle dealer's license
16 shall be filed with the Secretary of State, duly verified by
17 oath, in such form as the Secretary of State may by rule or
18 regulation prescribe and shall contain:

19 1. The name and type of business organization
20 established and additional places of business, if any, in
21 this State.

22 2. If the applicant is a corporation, a list of its
23 officers, directors, and shareholders having a ten
24 percent or greater ownership interest in the corporation,
25 setting forth the residence address of each; if the
26 applicant is a sole proprietorship, a partnership, an
27 unincorporated association, a trust, or any similar form
28 of business organization, the names and residence address
29 of the proprietor or of each partner, member, officer,
30 director, trustee or manager.

31 3. A statement that the applicant has been approved
32 for registration under the Retailers' Occupation Tax Act
33 by the Department of Revenue. However, this requirement
34 does not apply to a dealer who is already licensed

1 hereunder with the Secretary of State, and who is merely
2 applying for a renewal of his license. As evidence of
3 this fact, the application shall be accompanied by a
4 certification from the Department of Revenue showing that
5 the Department has approved the applicant for
6 registration under the Retailers' Occupation Tax Act.

7 4. A statement that the applicant has complied with
8 the appropriate liability insurance requirement. A
9 Certificate of Insurance in a solvent company authorized
10 to do business in the State of Illinois shall be included
11 with each application covering each location at which he
12 proposes to act as a used vehicle dealer. The policy
13 must provide liability coverage in the minimum amounts of
14 \$100,000 for bodily injury to, or death of, any person,
15 \$300,000 for bodily injury to, or death of, two or more
16 persons in any one accident, and \$50,000 for damage to
17 property. Such policy shall expire not sooner than
18 December 31 of the year for which the license was issued
19 or renewed. The expiration of the insurance policy shall
20 not terminate the liability under the policy arising
21 during the period for which the policy was filed.
22 Trailer and mobile home dealers are exempt from this
23 requirement.

24 5. An application for a used vehicle dealer's
25 license shall be accompanied by the following license
26 fees:

27 \$50 for applicant's established place of business,
28 and \$25 for each additional place of business, if any, to
29 which the application pertains; however, if the
30 application is made after June 15 of any year, the
31 license fee shall be \$25 for applicant's established
32 place of business plus \$12.50 for each additional place
33 of business, if any, to which the application pertains.
34 License fees shall be returnable only in the event that

1 the application is denied by the Secretary of State.

2 6. A statement that the applicant's officers,
3 directors, shareholders having a 10% or greater ownership
4 interest therein, proprietor, partner, member, officer,
5 director, trustee, manager or other principals in the
6 business have not committed in the past 3 years any one
7 violation as determined in any civil, criminal or
8 administrative proceedings of any one of the following
9 Acts:

10 (A) The Anti Theft Laws of the Illinois
11 Vehicle Code;

12 (B) The Certificate of Title Laws of the
13 Illinois Vehicle Code;

14 (C) The Offenses against Registration and
15 Certificates of Title Laws of the Illinois Vehicle
16 Code;

17 (D) The Dealers, Transporters, Wreckers and
18 Rebuilders Laws of the Illinois Vehicle Code;

19 (E) Section 21-2 of the Illinois Criminal Code
20 of 1961, Criminal Trespass to Vehicles; or

21 (F) The Retailers' Occupation Tax Act.

22 7. A statement that the applicant's officers,
23 directors, shareholders having a 10% or greater ownership
24 interest therein, proprietor, partner, member, officer,
25 director, trustee, manager or other principals in the
26 business have not committed in any calendar year 3 or
27 more violations, as determined in any civil or criminal
28 or administrative proceedings, of any one or more of the
29 following Acts:

30 (A) The Consumer Finance Act;

31 (B) The Consumer Installment Loan Act;

32 (C) The Retail Installment Sales Act;

33 (D) The Motor Vehicle Retail Installment Sales
34 Act;

- 1 (E) The Interest Act;
- 2 (F) The Illinois Wage Assignment Act;
- 3 (G) Part 8 of Article XII of the Code of Civil
- 4 Procedure; or
- 5 (H) The Consumer Fraud Act.

6 8. A bond or Certificate of Deposit in the amount
 7 of \$20,000 for each location at which the applicant
 8 intends to act as a used vehicle dealer. The bond shall
 9 be for the term of the license, or its renewal, for which
 10 application is made, and shall expire not sooner than
 11 December 31 of the year for which the license was issued
 12 or renewed. The bond shall run to the People of the
 13 State of Illinois, with surety by a bonding or insurance
 14 company authorized to do business in this State. It
 15 shall be conditioned upon the proper transmittal of all
 16 title and registration fees and taxes (excluding taxes
 17 under the Retailers' Occupation Tax Act) accepted by the
 18 applicant as a used vehicle dealer.

19 9. Such other information concerning the business
 20 of the applicant as the Secretary of State may by rule or
 21 regulation prescribe.

22 10. A statement that the applicant understands
 23 Chapter 1 through Chapter 5 of this Code.

24 (c) Any change which renders no longer accurate any
 25 information contained in any application for a used vehicle
 26 dealer's license shall be amended within 30 days after the
 27 occurrence of each change on such form as the Secretary of
 28 State may prescribe by rule or regulation, accompanied by an
 29 amendatory fee of \$2.

30 (d) Anything in this Chapter to the contrary
 31 notwithstanding, no person shall be licensed as a used
 32 vehicle dealer unless such person maintains an established
 33 place of business as defined in this Chapter.

34 (e) The Secretary of State shall, within a reasonable

1 time after receipt, examine an application submitted to him
2 under this Section. Unless the Secretary makes a
3 determination that the application submitted to him does not
4 conform to this Section or that grounds exist for a denial of
5 the application under Section 5-501 of this Chapter, he must
6 grant the applicant an original used vehicle dealer's license
7 in writing for his established place of business and a
8 supplemental license in writing for each additional place of
9 business in such form as he may prescribe by rule or
10 regulation which shall include the following:

11 1. The name of the person licensed;

12 2. If a corporation, the name and address of its
13 officers or if a sole proprietorship, a partnership, an
14 unincorporated association or any similar form of
15 business organization, the name and address of the
16 proprietor or of each partner, member, officer, director,
17 trustee or manager;

18 3. In case of an original license, the established
19 place of business of the licensee;

20 4. In the case of a supplemental license, the
21 established place of business of the licensee and the
22 additional place of business to which such supplemental
23 license pertains.

24 (f) The appropriate instrument evidencing the license or
25 a certified copy thereof, provided by the Secretary of State
26 shall be kept posted, conspicuously, in the established place
27 of business of the licensee and in each additional place of
28 business, if any, maintained by such licensee.

29 (g) Except as provided in subsection (h) of this
30 Section, all used vehicle dealer's licenses granted under
31 this Section expire by operation of law on December 31 of the
32 calendar year for which they are granted unless sooner
33 revoked or cancelled under Section 5-501 of this Chapter.

34 (h) A used vehicle dealer's license may be renewed upon

1 application and payment of the fee required herein, and
2 submission of proof of coverage by an approved bond under the
3 "Retailers' Occupation Tax Act" or proof that applicant is
4 not subject to such bonding requirements, as in the case of
5 an original license, but in case an application for the
6 renewal of an effective license is made during the month of
7 December, the effective license shall remain in force until
8 the application for renewal is granted or denied by the
9 Secretary of State.

10 (i) All persons licensed as a used vehicle dealer are
11 required to furnish each purchaser of a motor vehicle:

12 1. A certificate of title properly assigned to the
13 purchaser;

14 2. A statement verified under oath that all
15 identifying numbers on the vehicle agree with those on
16 the certificate of title;

17 3. A bill of sale properly executed on behalf of
18 such person;

19 4. A copy of the Uniform Invoice-transaction
20 reporting return referred to in Section 5-402 of this
21 Chapter;

22 5. In the case of a rebuilt vehicle, a copy of the
23 Disclosure of Rebuilt Vehicle Status; and

24 6. In the case of a vehicle for which the warranty
25 has been reinstated, a copy of the warranty.

26 (j) A real estate broker holding a valid certificate of
27 registration issued pursuant to "The Real Estate Brokers and
28 Salesmen License Act" may engage in the business of selling
29 or dealing in house trailers not his own without being
30 licensed as a used vehicle dealer under this Section; however
31 such broker shall maintain a record of the transaction
32 including the following:

33 (1) the name and address of the buyer and seller,

34 (2) the date of sale,

- 1 (3) a description of the mobile home, including the
2 vehicle identification number, make, model, and year, and
3 (4) the Illinois certificate of title number.

4 The foregoing records shall be available for inspection
5 by any officer of the Secretary of State's Office at any
6 reasonable hour.

7 (k) Except at the time of sale or repossession of the
8 vehicle, no person licensed as a used vehicle dealer may
9 issue to any other person a newly created key to a vehicle
10 unless (i) the used vehicle dealer has contacted the vehicle
11 dealer from whom the vehicle was purchased and has confirmed
12 that the person requesting the newly created key is the
13 person who purchased the vehicle or (ii) that person can
14 prove that he or she is the owner or lessee of that vehicle
15 by presenting any of the following:

- 16 (1) The certificate of title.
17 (2) The motor vehicle registration card.
18 (3) The purchase documents or finance contract.
19 (4) The rental or lease agreement.

20 The used vehicle dealer must make a copy of the driver's
21 license State identification card of the person requesting
22 the newly created key and must retain the copy for 6 months.

23 A used vehicle dealer who violates this subsection (k) is
24 guilty of a petty offense. Violation of this subsection (k)
25 is not cause to suspend, revoke, cancel, or deny renewal of
26 the used vehicle dealer's license.

27 (Source: P.A. 88-158; 89-189, eff. 1-1-96.)

28 Section 99. Effective date. This Act takes effect upon
29 becoming law.