

AN ACT concerning transportation.

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

Section 5. The Illinois Vehicle Code is amended by changing Section 5-102 and by adding Section 5-102.5 as follows:

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

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

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

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

1. The name and type of business organization

established and additional places of business, if any, in this State.

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

3. A statement that the applicant has been approved for registration under the Retailers' Occupation Tax Act by the Department of Revenue. However, this requirement does not apply to a dealer who is already licensed hereunder with the Secretary of State, and who is merely applying for a renewal of his license. As evidence of this fact, the application shall be accompanied by a certification from the Department of Revenue showing that the Department has approved the applicant for registration under the Retailers' Occupation Tax Act.

4. A statement that the applicant has complied with the appropriate liability insurance requirement. A Certificate of Insurance in a solvent company authorized to do business in the State of Illinois shall be included with each application covering each location at which he proposes to

act as a used vehicle dealer. The policy must provide liability coverage in the minimum amounts of \$100,000 for bodily injury to, or death of, any person, \$300,000 for bodily injury to, or death of, two or more persons in any one accident, and \$50,000 for damage to property. Such policy shall expire not sooner than December 31 of the year for which the license was issued or renewed. The expiration of the insurance policy shall not terminate the liability under the policy arising during the period for which the policy was filed. Trailer and mobile home dealers are exempt from this requirement.

If the permitted user has a liability insurance policy that provides automobile liability insurance coverage of at least \$100,000 for bodily injury to or the death of any person, \$300,000 for bodily injury to or the death of any 2 or more persons in any one accident, and \$50,000 for damage to property, then the permitted user's insurer shall be the primary insurer and the dealer's insurer shall be the secondary insurer. If the permitted user does not have a liability insurance policy that provides automobile liability insurance coverage of at least \$100,000 for bodily injury to or the death of any person, \$300,000 for bodily injury to or the death of any 2 or more persons in any one accident, and \$50,000 for damage to property, or does not have any insurance at all, then the dealer's insurer shall be the primary insurer and the permitted

user's insurer shall be the secondary insurer.

When a permitted user is "test driving" a used vehicle dealer's automobile, the used vehicle dealer's insurance shall be primary and the permitted user's insurance shall be secondary.

As used in this paragraph 4, a "permitted user" is a person who, with the permission of the used vehicle dealer or an employee of the used vehicle dealer, drives a vehicle owned and held for sale or lease by the used vehicle dealer which the person is considering to purchase or lease, in order to evaluate the performance, reliability, or condition of the vehicle. The term "permitted user" also includes a person who, with the permission of the used vehicle dealer, drives a vehicle owned or held for sale or lease by the used vehicle dealer for loaner purposes while the user's vehicle is being repaired or evaluated.

As used in this paragraph 4, "test driving" occurs when a permitted user who, with the permission of the used vehicle dealer or an employee of the used vehicle dealer, drives a vehicle owned and held for sale or lease by a used vehicle dealer that the person is considering to purchase or lease, in order to evaluate the performance, reliability, or condition of the vehicle.

As used in this paragraph 4, "loaner purposes" means when a person who, with the permission of the used vehicle dealer, drives a vehicle owned or held for sale or lease by

the used vehicle dealer while the user's vehicle is being repaired or evaluated.

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

\$1,000 for applicant's established place of business, and \$50 for each additional place of business, if any, to which the application pertains; however, if the application is made after June 15 of any year, the license fee shall be \$500 for applicant's established place of business plus \$25 for each additional place of business, if any, to which the application pertains. License fees shall be returnable only in the event that the application is denied by the Secretary of State. Of the money received by the Secretary of State as license fees under this Section for the 2004 licensing year and thereafter, 95% shall be deposited into the General Revenue Fund.

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

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

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

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

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

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

(F) The Retailers' Occupation Tax Act.

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

(A) The Consumer Finance Act;

(B) The Consumer Installment Loan Act;

(C) The Retail Installment Sales Act;

(D) The Motor Vehicle Retail Installment Sales Act;

(E) The Interest Act;

(F) The Illinois Wage Assignment Act;

(G) Part 8 of Article XII of the Code of Civil

Procedure; or

(H) The Consumer Fraud Act.

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

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

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

11. A copy of the certification from the prelicensing education program.

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

amendatory fee of \$2.

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

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

1. The name of the person licensed;
2. If a corporation, the name and address of its officers or if a sole proprietorship, a partnership, an unincorporated association or any similar form of business organization, the name and address of the proprietor or of each partner, member, officer, director, trustee or manager;
3. In case of an original license, the established place of business of the licensee;
4. In the case of a supplemental license, the

established place of business of the licensee and the additional place of business to which such supplemental license pertains.

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

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

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

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

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

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

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

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

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

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

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

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

(2) the date of sale,

(3) a description of the mobile home, including the vehicle identification number, make, model, and year, and

(4) the Illinois certificate of title number.

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

(k) Except at the time of sale or repossession of the vehicle, no person licensed as a used vehicle dealer may issue any other person a newly created key to a vehicle unless the used vehicle dealer makes a copy of the driver's license or State identification card of the person requesting or obtaining the newly created key. The used vehicle dealer must retain the copy for 30 days.

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

(1) Used vehicle dealers licensed under this Section shall provide the Secretary of State a register for the sale at auction of each salvage or junk certificate vehicle. Each register shall include the following information:

1. The year, make, model, style and color of the vehicle;
2. The vehicle's manufacturer's identification number or, if applicable, the Secretary of State or Illinois Department of State Police identification number;
3. The date of acquisition of the vehicle;
4. The name and address of the person from whom the vehicle was acquired;
5. The name and address of the person to whom any vehicle was disposed, the person's Illinois license number or if the person is an out-of-state salvage vehicle buyer,

the license number from the state or jurisdiction where the buyer is licensed; and

6. The purchase price of the vehicle.

The register shall be submitted to the Secretary of State via written or electronic means within 10 calendar days from the date of the auction.

(Source: P.A. 95-783, eff. 1-1-09.)

(625 ILCS 5/5-102.5 new)

Sec. 5-102.5. Used vehicle dealer prelicensing education program courses.

(a) An applicant for a license as a used vehicle dealer shall complete a minimum of 8 hours of prelicensing education program courses pursuant to this Section prior to submitting an application to the Secretary of State.

(b) To meet the requirements of this Section, at least one individual who is associated with the used vehicle dealer as an owner, principal, corporate officer, director, or member or partner of a limited liability company or limited liability partnership shall complete the education program courses.

(c) The education program courses shall be provided by public or private entities with an expertise in the area as approved by the Secretary of State. The Secretary of State must approve course curricula and instruction, in consultation with the Illinois Department of Transportation and any private entity with expertise in the area in the Secretary of State's

discretion.

(d) Each person who successfully completes an approved prelicensing education program under this Section shall be issued a certificate by the education program provider of the course. The current certificate of completion, or a copy of the certificate, shall be posted conspicuously in the principal office of the licensee.

(e) The provisions of this Section apply to all used vehicle dealers including, but not limited to, individuals, corporations, and partnerships, except for the following:

(1) Motor vehicle rental companies having a national franchise;

(2) National motor vehicle auction companies;

(3) Wholesale dealer-only auction companies;

(4) Used vehicle dealerships owned by a franchise motor vehicle dealer; and

(5) Banks, credit unions, and savings and loan associations.

Section 99. Effective date. This Act takes effect August 1, 2009.