

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 5-401.2 and by adding Section 5-101.2 as follows:

(625 ILCS 5/5-101.2 new)

Sec. 5-101.2. Manufactured home dealers; licensing.

(a) For the purposes of this Section, the following words shall have the meanings ascribed to them as follows:

"Community-based manufactured home dealer" means an individual or entity that operates a tract of land or 2 or more contiguous tracts of land which contain sites with the necessary utilities for 5 or more independent manufactured homes for permanent habitation, either free of charge or for revenue purposes, and shall include any building, structure, vehicle, or enclosure used or intended for use as a part of the equipment of the manufactured home park who may, incidental to the operation of the manufactured home community, sell, trade, or buy a manufactured home or park model that is located within the manufactured home community or is located in a different manufactured home community that is owned or managed by the community-based manufactured home dealer.

"Established place of business" means the place owned or leased and occupied by any person duly licensed or required to be licensed as a manufactured home dealer or a community-based manufactured home dealer for the purpose of engaging in selling, buying, bartering, displaying, exchanging, or dealing in, on consignment or otherwise, manufactured homes or park models and for such other ancillary purposes as may be permitted by the Secretary by rule. An established place of business shall include a single or central office in which the manufactured home dealer's or community-based manufactured home dealer's records shall be separate and distinct from any other business or tenant which may occupy space in the same building, except as provided in this Section, and the office shall not be located in a tent, temporary stand, temporary address, room or rooms in a hotel or rooming house, nor the premises occupied by a single or multiple unit residence, unless the multiple unit residence has a separate and distinct office.

"Manufactured home" means a factory assembled structure built on a permanent chassis, transportable in one or more sections in the travel mode, incapable of self-propulsion, and bears a label indicating the manufacturer's compliance with the United States Department of Housing and Urban Development standards, as applicable, that is without a permanent foundation and is

designed for year round occupancy as a single-family residence when connected to approved water, sewer, and electrical utilities.

"Manufactured home dealer" means an individual or entity that engages in the business of acquiring or disposing of a manufactured home or park model, either a new manufactured home or park model, pursuant to a franchise agreement with a manufacturer, or used manufactured homes or park models, and who has an established place of business that is not in a residential community-based setting.

"Park model" means a vehicle that is incapable of self-propulsion that is less than 400 square feet of habitable space that is built to American National Standards Institute (ANSI) standards that prohibits occupancy on a permanent basis and is built on a vehicle chassis.

"Supplemental license" means a license that a community-based manufactured home dealer receives and displays at locations in which the licensee is authorized to sell, buy, barter, display, exchange, or deal in, on consignment or otherwise, manufactured homes or park models, but is not the established place of business of the licensee.

(b) No person shall engage in this State in the business of selling or dealing in, on consignment or otherwise,

manufactured homes or park models of any make, or act as an intermediary, agent, or broker for any manufactured home or park model purchaser, other than as a salesperson or to represent or advertise that he or she is so engaged, or intends to so engage, in the business, unless licensed to do so by the Secretary of State under the provisions of this Section.

(c) An application for a manufactured home dealer's license or a community-based manufactured home dealer's license shall be filed with the Secretary of State and duly verified by oath, on such form as the Secretary of State may by rule prescribe and shall contain all of the following:

(1) The name and type of business organization of the applicant, and his or her 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 10% or greater ownership interest in the corporation. If the applicant is a sole proprietorship, a partnership, a limited liability company, an unincorporated association, a trust, or any similar form of business organization, the name and residence address of the proprietor, or the name and residence address of each partner, member, officer, director, trustee, or manager.

(3) The make or makes of new manufactured homes or park models that the applicant will offer for sale at retail in the State.

(4) The name of each manufacturer or franchised distributor, if any, of new manufactured homes or park models with whom the applicant has contracted for the sale of new manufactured homes or park models. As evidence of this fact, the application shall be accompanied by a signed statement from each manufacturer or franchised distributor.

(5) A statement that the applicant has been approved for registration under the Retailers' Occupation Tax Act by the Department of Revenue, provided that this requirement does not apply to a manufactured home dealer who is already licensed with the Secretary of State, and who is merely applying for a renewal of his or her 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.

(6) An application for:

(A) a manufactured home dealer's license, when the applicant is selling new manufactured homes or park models on behalf of a manufacturer of manufactured homes or park models, or 5 or more used manufactured homes or park models during the calendar year, shall be accompanied by a \$1,000 license fee for the applicant's established place of business, and \$100 for each additional place of business, if any, to which the

application pertains. If the application is made after June 15 in any year, the license fee shall be \$500 for the applicant's established place of business, and \$50 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; or

(B) a community-based manufactured home dealer's license, when the applicant is selling 5 or more manufactured homes during the calendar year not on behalf of a manufacturer of manufactured homes, but within a community setting, shall be accompanied by a license fee of \$500 for the applicant's established place of business, and \$50 for each additional place of business, if any to which the application pertains. If the application is made after June 15 in any year, the license fee shall be \$250 for the applicant's established place of business, and \$50 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 monies received by the Secretary of State as license fees under this paragraph (6), 95% shall be deposited into the General Revenue Fund and 5% into the Motor Vehicle License Plate Fund.

(7) A statement that the applicant's officers, directors, and shareholders having a 10% or greater ownership interest therein, proprietor, a 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 hearing proceeding, 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 Criminal Code of 2012 (criminal trespass to vehicles);

(F) the Retailers Occupation Tax Act;

(G) the Consumer Finance Act;

(H) the Consumer Installment Loan Act;

(I) the Retail Installment Sales Act;

(J) the Motor Vehicle Retail Installment Sales Act;

(K) the Interest Act;

(L) the Illinois Wage Assignment Act;

(M) Part 8 of Article XII of the Code of Civil Procedure; or

(N) the Consumer Fraud Act.

(8) A bond or certificate of deposit in the amount of \$20,000 for each license holder applicant intending to act as a manufactured home dealer or community-based manufactured home dealer under this Section. The bond shall be for the term of the license, for which application is made, and shall expire not sooner than December 31 of the year for which the license was issued. 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 manufactured home dealer.

(9) Dealers in business for over 5 years may substitute a certificate of insurance in lieu of the bond or certificate of deposit upon renewing their license.

(10) Any other information concerning the business of the applicant as the Secretary of State may by rule prescribe.

(11) A statement that the applicant has read and understands Chapters 1 through 5 of this Code.

(d) Any change which renders no longer accurate any

information contained in any application for a license under this Section shall be amended within 30 days after the occurrence of the change on a form the Secretary of State may prescribe, by rule, accompanied by an amendatory fee of \$25.

(e) The Secretary of State shall, within a reasonable time after receipt, examine an application submitted to him or her under this Section, and unless he or she makes a determination that the application submitted to him or her does not conform with the requirements of this Section or that grounds exist for a denial of the application under Section 5-501 of this Chapter, grant the applicant an initial manufactured home dealer's license or a community-based manufactured home dealer's license in writing for his or her established place of business and a supplemental license in writing for each additional place of business in a form the Secretary may prescribe by rule, which shall include the following:

(1) the name of the person or entity licensed;

(2) if a corporation, the name and address of its officers; if a sole proprietorship, a partnership, an unincorporated association, or any similar form of business organization, the name and address of the proprietor, or the name and address of each partner, member, officer, director, trustee or manager; or if a limited liability company, the name and address of the general partner or partners, or managing member or members;

(3) in the 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 the supplemental license pertains; and

(5) if applicable, the make or makes of new manufactured homes or park models to which a manufactured home dealer is licensed to sell.

(f) The appropriate instrument evidencing the license or a certified copy of the instrument, 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 the licensee, unless the licensee is a community-based manufactured home dealer, then the license shall be posted in the community-based manufactured home dealer's central office and it shall include a list of the other locations that the community-based manufactured home dealer may oversee.

(g) Except as provided in subsection (i) of this Section, all licenses granted under this Section shall expire by operation of law on December 31 of the calendar year for which the licenses were granted, unless sooner revoked or cancelled under the provisions of Section 5-501 of this Chapter.

(h) All persons licensed as a manufactured home dealer or a community-based manufactured home dealer are required to furnish each purchaser of a manufactured home or park model:

(1) in the case of a new manufactured home or park model, a manufacturer's statement of origin, and in the case of a previously owned manufactured home or park model, a certificate of title, in either case properly assigned to the purchaser;

(2) a statement verified under oath that all identifying numbers on the vehicle match the identifying numbers on the certificate of title or manufacturer's statement of origin;

(3) a bill of sale properly executed on behalf of the purchaser;

(4) a copy of the Uniform Invoice-transaction reporting return form referred to in Section 5-402; and

(5) for a new manufactured home or park model, a warranty, and in the case of a manufactured home or park model for which the warranty has been reinstated, a copy of the warranty; if no warranty is provided, a disclosure or statement that the manufactured home or park model is being sold "AS IS".

(i) This Section shall not apply to a (i) seller who privately owns his or her manufactured home or park model as his or her main residence and is selling the manufactured home or park model to another individual or to a licensee; (ii) a retailer or entity licensed under either Section 5-101 or 5-102 of this Code; or (iii) an individual or entity licensed to sell truck campers, travel trailers, motor homes, or mini motor

homes as defined by this Code. Any vehicle not covered by this Section that requires an individual or entity to obtain a license to sell 5 or more vehicles must obtain a license under the relevant provisions of this Code.

(j) This Section shall not apply to any person licensed under the Real Estate License Act of 2000.

(k) The Secretary of State may adopt any rules necessary to implement this Section.

(625 ILCS 5/5-401.2) (from Ch. 95 1/2, par. 5-401.2)

Sec. 5-401.2. Licensees required to keep records and make inspections.

(a) Every person licensed or required to be licensed under Section 5-101, 5-101.1, 5-101.2, 5-102, 5-301 or 5-302 of this Code, shall, with the exception of scrap processors, maintain for 3 years, in a form as the Secretary of State may by rule or regulation prescribe, at his established place of business, additional place of business, or principal place of business if licensed under Section 5-302, the following records relating to the acquisition or disposition of vehicles and their essential parts possessed in this State, brought into this State from another state, territory or country, or sold or transferred to another person in this State or in another state, territory, or country.

(1) The following records pertaining to new or used vehicles shall be kept:

(A) the year, make, model, style and color of the vehicle;

(B) the vehicle's manufacturer's identification number or, if applicable, the Secretary of State or Illinois Department of State Police identification number;

(C) the date of acquisition of the vehicle;

(D) the name and address of the person from whom the vehicle was acquired and, if that person is a dealer, the Illinois or out-of-state dealer license number of such person;

(E) the signature of the person making the inspection of a used vehicle as required under subsection (d) of this Section, if applicable;

(F) the purchase price of the vehicle, if applicable;

(G) the date of the disposition of the vehicle;

(H) the name and address of the person to whom any vehicle was disposed, and if that person is a dealer, the Illinois or out-of-State dealer's license number of that dealer;

(I) the uniform invoice number reflecting the disposition of the vehicle, if applicable; and

(J) The sale price of the vehicle, if applicable.

(2) (A) The following records pertaining to used essential parts other than quarter panels and

transmissions of vehicles of the first division shall be kept:

(i) the year, make, model, color and type of such part;

(ii) the vehicle's manufacturer's identification number, derivative number, or, if applicable, the Secretary of State or Illinois Department of State Police identification number of such part;

(iii) the date of the acquisition of each part;

(iv) the name and address of the person from whom the part was acquired and, if that person is a dealer, the Illinois or out-of-state dealer license number of such person; if the essential part being acquired is from a person other than a dealer, the licensee shall verify and record that person's identity by recording the identification numbers from at least two sources of identification, one of which shall be a drivers license or State identification card;

(v) the uniform invoice number or out-of-state bill of sale number reflecting the acquisition of such part;

(vi) the stock number assigned to the essential part by the licensee, if applicable;

(vii) the date of the disposition of such part;

(viii) the name and address of the person to whom such part was disposed of and, if that person is a

dealer, the Illinois or out-of-state dealer license number of that person;

(ix) the uniform invoice number reflecting the disposition of such part.

(B) Inspections of all essential parts shall be conducted in accordance with Section 5-402.1.

(C) A separate entry containing all of the information required to be recorded in subparagraph (A) of paragraph (2) of subsection (a) of this Section shall be made for each separate essential part. Separate entries shall be made regardless of whether the part was a large purchase acquisition. In addition, a separate entry shall be made for each part acquired for immediate sale or transfer, or for placement into the overall inventory or stock to be disposed of at a later time, or for use on a vehicle to be materially altered by the licensee, or acquired for any other purpose or reason. Failure to make a separate entry for each essential part acquired or disposed of, or a failure to record any of the specific information required to be recorded concerning the acquisition or disposition of each essential part as set forth in subparagraph (A) of paragraph (2) of subsection (a) shall constitute a failure to keep records.

(D) The vehicle's manufacturer's identification number or Secretary of State or Illinois Department of State Police identification number for the essential part shall

be ascertained and recorded even if such part is acquired from a person or dealer located in a State, territory, or country which does not require that such information be recorded. If the vehicle's manufacturer's identification number or Secretary of State or Illinois Department of State Police identification number for an essential part cannot be obtained, that part shall not be acquired by the licensee or any of his agents or employees. If such part or parts were physically acquired by the licensee or any of his agents or employees while the licensee or agent or employee was outside this State, that licensee or agent or employee was outside the State, that licensee, agent or employee shall not bring such essential part into this State or cause it to be brought into this State. The acquisition or disposition of an essential part by a licensee without the recording of the vehicle identification number or Secretary of State identification number for such part or the transportation into the State by the licensee or his agent or employee of such part or parts shall constitute a failure to keep records.

(E) The records of essential parts required to be kept by this Section shall apply to all hulks, chassis, frames or cowls, regardless of the age of those essential parts. The records required to be kept by this Section for essential parts other than hulks, chassis, frames or cowls, shall apply only to those essential parts which are 6 model

years of age or newer. In determining the model year of such an essential part it may be presumed that the identification number of the vehicle from which the essential part came or the identification number affixed to the essential part itself acquired by the licensee denotes the model year of that essential part. This presumption, however, shall not apply if the gross appearance of the essential part does not correspond to the year, make or model of either the identification number of the vehicle from which the essential part is alleged to have come or the identification number which is affixed to the essential part itself. To determine whether an essential part is 6 years of age or newer within this paragraph, the model year of the essential part shall be subtracted from the calendar year in which the essential part is acquired or disposed of by the licensee. If the remainder is 6 or less, the record of the acquisition or disposition of that essential part shall be kept as required by this Section.

(F) The requirements of paragraph (2) of subsection (a) of this Section shall not apply to the disposition of an essential part other than a cowl which has been damaged or altered to a state in which it can no longer be returned to a usable condition and which is being sold or transferred to a scrap processor or for delivery to a scrap processor.

(3) the following records for vehicles on which junking certificates are obtained shall be kept:

(A) the year, make, model, style and color of the vehicle;

(B) the vehicle's manufacturer's identification number or, if applicable, the Secretary of State or Illinois Department of State Police identification number;

(C) the date the vehicle was acquired;

(D) the name and address of the person from whom the vehicle was acquired and, if that person is a dealer, the Illinois or out-of-state dealer license number of that person;

(E) the certificate of title number or salvage certificate number for the vehicle, if applicable;

(F) the junking certificate number obtained by the licensee; this entry shall be recorded at the close of business of the fifth business day after receiving the junking certificate;

(G) the name and address of the person to whom the junking certificate has been assigned, if applicable, and if that person is a dealer, the Illinois or out-of-state dealer license number of that dealer;

(H) if the vehicle or any part of the vehicle is dismantled for its parts to be disposed of in any way, or if such parts are to be used by the licensee to materially alter a vehicle, those essential parts shall be recorded and the entries required by paragraph (2) of subsection (a) shall be made.

(4) The following records for rebuilt vehicles shall be kept:

(A) the year, make, model, style and color of the vehicle;

(B) the vehicle's manufacturer's identification number of the vehicle or, if applicable, the Secretary of State or Illinois Department of State Police identification number;

(C) the date the vehicle was acquired;

(D) the name and address of the person from whom the vehicle was acquired, and if that person is a dealer, the Illinois or out-of-state dealer license number of that person;

(E) the salvage certificate number for the vehicle;

(F) the newly issued certificate of title number for the vehicle;

(G) the date of disposition of the vehicle;

(H) the name and address of the person to whom the vehicle was disposed, and if a dealer, the Illinois or out-of-state dealer license number of that dealer;

(I) The sale price of the vehicle.

(a-1) A person licensed or required to be licensed under Section 5-101 or Section 5-102 of this Code who issues temporary registration permits as permitted by this Code and by rule must electronically file the registration with the Secretary and must maintain records of the registration in the manner prescribed by the Secretary.

(b) A failure to make separate entries for each vehicle acquired, disposed of, or assigned, or a failure to record any of the specific information required to be recorded concerning the acquisition or disposition of each vehicle as set forth in paragraphs (1), (3) and (4) of subsection (a) shall constitute a failure to keep records.

(c) All entries relating to the acquisition of a vehicle or essential part required by subsection (a) of this Section shall be recorded no later than the close of business on the seventh calendar day following such acquisition. All entries relating to the disposition of a vehicle or an essential part shall be made at the time of such disposition. If the vehicle or essential part was disposed of on the same day as its acquisition or the day thereafter, the entries relating to the acquisition of the vehicle or essential part shall be made at the time of the disposition of the vehicle or essential part. Failure to make the entries required in or at the times prescribed by this subsection following the acquisition or disposition of such vehicle or essential part shall constitute a failure to keep records.

(d) Every person licensed or required to be licensed shall, before accepting delivery of a used vehicle, inspect the vehicle to determine whether the manufacturer's public vehicle identification number has been defaced, destroyed, falsified, removed, altered, or tampered with in any way. If the person making the inspection determines that the manufacturer's

public vehicle identification number has been altered, removed, defaced, destroyed, falsified or tampered with he shall not acquire that vehicle but instead shall promptly notify law enforcement authorities of his finding.

(e) The information required to be kept in subsection (a) of this Section shall be kept in a manner prescribed by rule or regulation of the Secretary of State.

(f) Every person licensed or required to be licensed shall have in his possession a separate certificate of title, salvage certificate, junking certificate, certificate of purchase, uniform invoice, out-of-state bill of sale or other acceptable documentary evidence of his right to the possession of every vehicle or essential part.

(g) Every person licensed or required to be licensed as a transporter under Section 5-201 shall maintain for 3 years, in such form as the Secretary of State may by rule or regulation prescribe, at his principal place of business a record of every vehicle transported by him, including numbers of or other marks of identification thereof, the names and addresses of persons from whom and to whom the vehicle was delivered and the dates of delivery.

(h) No later than 15 days prior to going out of business, selling the business, or transferring the ownership of the business, the licensee shall notify the Secretary of State that he is going out of business or that he is transferring the ownership of the business. Failure to notify under this

paragraph shall constitute a failure to keep records.

(i) (Blank).

(j) A person who knowingly fails to comply with the provisions of this Section or knowingly fails to obey, observe, or comply with any order of the Secretary or any law enforcement agency issued in accordance with this Section is guilty of a Class B misdemeanor for the first violation and a Class A misdemeanor for the second and subsequent violations. Each violation constitutes a separate and distinct offense and a separate count may be brought in the same indictment or information for each vehicle or each essential part of a vehicle for which a record was not kept as required by this Section.

(k) Any person convicted of failing to keep the records required by this Section with intent to conceal the identity or origin of a vehicle or its essential parts or with intent to defraud the public in the transfer or sale of vehicles or their essential parts is guilty of a Class 2 felony. Each violation constitutes a separate and distinct offense and a separate count may be brought in the same indictment or information for each vehicle or essential part of a vehicle for which a record was not kept as required by this Section.

(l) A person may not be criminally charged with or convicted of both a knowing failure to comply with this Section and a knowing failure to comply with any order, if both offenses involve the same record keeping violation.

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(m) The Secretary shall adopt rules necessary for implementation of this Section, which may include the imposition of administrative fines.

(Source: P.A. 91-415, eff. 1-1-00; 92-773, eff. 8-6-02.)

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