

1 AN ACT concerning vehicles.

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

4 Section 5. The Illinois Vehicle Code is amended by  
5 changing Section 5-101 as follows:

6 (625 ILCS 5/5-101) (from Ch. 95 1/2, par. 5-101)

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

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

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

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

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

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

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

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

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

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

11 If the permitted user has a liability insurance  
12 policy that provides automobile liability insurance  
13 coverage of at least \$100,000 for bodily injury to or the  
14 death of any person, \$300,000 for bodily injury to or the  
15 death of any 2 or more persons in any one accident, and  
16 \$50,000 for damage to property, then the permitted user's  
17 insurer shall be the primary insurer and the dealer's  
18 insurer shall be the secondary insurer. If the permitted  
19 user does not have a liability insurance policy that  
20 provides automobile liability insurance coverage of at  
21 least \$100,000 for bodily injury to or the death of any  
22 person, \$300,000 for bodily injury to or the death of any  
23 2 or more persons in any one accident, and \$50,000 for  
24 damage to property, or does not have any insurance at  
25 all, then the dealer's insurer shall be the primary  
26 insurer and the permitted user's insurer shall be the  
27 secondary insurer.

28 When a permitted user is "test driving" a new  
29 vehicle dealer's automobile, the new vehicle dealer's  
30 insurance shall be primary and the permitted user's  
31 insurance shall be secondary.

32 As used in this paragraph 6, a "permitted user" is a  
33 person who, with the permission of the new vehicle dealer  
34 or an employee of the new vehicle dealer, drives a

1 vehicle owned and held for sale or lease by the new  
2 vehicle dealer which the person is considering to  
3 purchase or lease, in order to evaluate the performance,  
4 reliability, or condition of the vehicle. The term  
5 "permitted user" also includes a person who, with the  
6 permission of the new vehicle dealer, drives a vehicle  
7 owned or held for sale or lease by the new vehicle dealer  
8 for loaner purposes while the user's vehicle is being  
9 repaired or evaluated.

10 As used in this paragraph 6, "test driving" occurs  
11 when a permitted user who, with the permission of the new  
12 vehicle dealer or an employee of the new vehicle dealer,  
13 drives a vehicle owned and held for sale or lease by a  
14 new vehicle dealer that the person is considering to  
15 purchase or lease, in order to evaluate the performance,  
16 reliability, or condition of the vehicle.

17 As used in this paragraph 6, "loaner purposes" means  
18 when a person who, with the permission of the new vehicle  
19 dealer, drives a vehicle owned or held for sale or lease  
20 by the new vehicle dealer while the user's vehicle is  
21 being repaired or evaluated.

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

25 \$1,000 for applicant's established place of  
26 business, and \$100 for each additional place of  
27 business, if any, to which the application pertains;  
28 but if the application is made after June 15 of any  
29 year, the license fee shall be \$500 for applicant's  
30 established place of business plus \$50 for each  
31 additional place of business, if any, to which the  
32 application pertains. License fees shall be  
33 returnable only in the event that the application is  
34 denied by the Secretary of State. All moneys

1 received by the Secretary of State as license fees  
 2 under paragraph (7)(A) of subsection (b) of this  
 3 Section prior to applications for the 2004 licensing  
 4 year shall be deposited into the Motor Vehicle  
 5 Review Board Fund and shall be used to administer  
 6 the Motor Vehicle Review Board under the Motor  
 7 Vehicle Franchise Act. Of the money received by the  
 8 Secretary of State as license fees under paragraph  
 9 (7)(A) of subsection (b) of this Section for the  
 10 2004 licensing year and thereafter, 10% shall be  
 11 deposited into the Motor Vehicle Review Board Fund  
 12 and shall be used to administer the Motor Vehicle  
 13 Review Board under the Motor Vehicle Franchise Act  
 14 and 90% shall be deposited into the General Revenue  
 15 Fund.

16 (B) An application for a new vehicle dealer's  
 17 license, other than for a new motor vehicle dealer's  
 18 license, shall be accompanied by the following  
 19 license fees:

20 \$50 ~~\$1,000~~ for applicant's established place of  
 21 business, and \$25 ~~\$50~~ for each additional place of  
 22 business, if any, to which the application pertains;  
 23 but if the application is made after June 15 of any  
 24 year, the license fee shall be \$25 ~~\$500~~ for  
 25 applicant's established place of business plus  
 26 \$12.50 ~~\$25~~ for each additional place of business, if  
 27 any, to which the application pertains. License  
 28 fees shall be returnable only in the event that the  
 29 application is denied by the Secretary of State. ~~Of~~  
 30 ~~the money received by the Secretary of State as~~  
 31 ~~license fees under this subsection for the 2004~~  
 32 ~~licensing year and thereafter, 95% shall be~~  
 33 ~~deposited into the General Revenue Fund.~~

34 8. A statement that the applicant's officers,

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

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

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

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

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

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

19 (F) The Retailers' Occupation Tax Act.

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

28 (A) The Consumer Finance Act;

29 (B) The Consumer Installment Loan Act;

30 (C) The Retail Installment Sales Act;

31 (D) The Motor Vehicle Retail Installment Sales  
32 Act;

33 (E) The Interest Act;

34 (F) The Illinois Wage Assignment Act;

1                   (G) Part 8 of Article XII of the Code of Civil  
2                   Procedure; or

3                   (H) The Consumer Fraud Act.

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

17                  11. Such other information concerning the business  
18                  of the applicant as the Secretary of State may by rule or  
19                  regulation prescribe.

20                  12. A statement that the applicant understands  
21                  Chapter One through Chapter Five of this Code.

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

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

31                  1. He is authorized by contract in writing between  
32                  himself and the manufacturer or franchised distributor of  
33                  such make of vehicle to so sell the same in this State,  
34                  and

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

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

14           1. The name of the person licensed;

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

21           3. In the case of an original license, the  
22 established place of business of the licensee;

23           4. In the case of a supplemental license, the  
24 established place of business of the licensee and the  
25 additional place of business to which such supplemental  
26 license pertains;

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

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

34           (g) Except as provided in subsection (h) hereof, all new



1 vehicle dealer's licenses granted under this Section shall  
2 expire by operation of law on December 31 of the calendar  
3 year for which they are granted unless sooner revoked or  
4 cancelled under the provisions of Section 5-501 of this  
5 Chapter.

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

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

18 1. In the case of a new vehicle a manufacturer's  
19 statement of origin and in the case of a used motor  
20 vehicle a certificate of title, in either case properly  
21 assigned to the purchaser;

22 2. A statement verified under oath that all  
23 identifying numbers on the vehicle agree with those on  
24 the certificate of title or manufacturer's statement of  
25 origin;

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

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

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

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

34 (j) Except at the time of sale or repossession of the

1 vehicle, no person licensed as a new vehicle dealer may issue  
2 any other person a newly created key to a vehicle unless the  
3 new vehicle dealer makes a copy of the driver's license or  
4 State identification card of the person requesting or  
5 obtaining the newly created key. The new vehicle dealer must  
6 retain the copy for 30 days.

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

11 This amendatory Act of 1983 shall be applicable to the  
12 1984 registration year and thereafter.

13 (Source: P.A. 92-391, eff. 8-16-01; 92-835, eff. 6-1-03;  
14 93-32, eff. 7-1-03.)

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