



## 94TH GENERAL ASSEMBLY

### State of Illinois

2005 and 2006

HB4790

Introduced 1/18/2006, by Rep. Jim Sacia

#### SYNOPSIS AS INTRODUCED:

625 ILCS 5/5-102

from Ch. 95 1/2, par. 5-102

Amends the Illinois Vehicle Code. Provides that no used vehicle dealer license may be issued to any franchised motor vehicle dealer or any independent motor vehicle dealer owned by a franchised motor vehicle dealer or its dealer-operator and operated by the dealer-operator of a franchised motor vehicle dealer, unless the dealer-operator holds a valid certificate of qualification issued by the Secretary of State. Sets forth requirements for certification. Provides that certain dealers may obtain a license without examination. Provides that no license may be issued to any independent motor vehicle dealer unless the dealer-operator holds a valid certificate of qualification issued by the Secretary of State. Sets forth requirements for certification. Provides that the Secretary of State may establish minimum qualifications for applicants and, on and after January 1, 2007, shall require applicants for an original independent dealer-operator license to complete a course curriculum and to pay set course fees. Provides that the Secretary of State may approve qualified persons to prepare and present the courses and to administer the examination.

LRB094 18151 DRH 53459 b

FISCAL NOTE ACT  
MAY APPLY

1 AN ACT concerning transportation.

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 changing  
5 Section 5-102 as follows:

6 (625 ILCS 5/5-102) (from Ch. 95 1/2, par. 5-102)

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

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

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

23 1. The name and type of business organization  
24 established and additional places of business, if any, in  
25 this State.

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

1 proprietor or of each partner, member, officer, director,  
2 trustee or manager.

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

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

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

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

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

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

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

31 As used in this paragraph 4, "loaner purposes" means  
32 when a person who, with the permission of the used vehicle  
33 dealer, drives a vehicle owned or held for sale or lease by  
34 the used vehicle dealer while the user's vehicle is being  
35 repaired or evaluated.

36 5. An application for a used vehicle dealer's license

1 shall be accompanied by the following license fees:

2 \$1,000 for applicant's established place of business,  
3 and \$50 for each additional place of business, if any, to  
4 which the application pertains; however, if the  
5 application is made after June 15 of any year, the license  
6 fee shall be \$500 for applicant's established place of  
7 business plus \$25 for each additional place of business, if  
8 any, to which the application pertains. License fees shall  
9 be returnable only in the event that the application is  
10 denied by the Secretary of State. Of the money received by  
11 the Secretary of State as license fees under this Section  
12 for the 2004 licensing year and thereafter, 95% shall be  
13 deposited into the General Revenue Fund.

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

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

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

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

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

31 (E) Section 21-2 of the Illinois Criminal Code of  
32 1961, Criminal Trespass to Vehicles; or

33 (F) The Retailers' Occupation Tax Act.

34 7. A statement that the applicant's officers,  
35 directors, shareholders having a 10% or greater ownership  
36 interest therein, proprietor, partner, member, officer,

1 director, trustee, manager or other principals in the  
2 business have not committed in any calendar year 3 or more  
3 violations, as determined in any civil or criminal or  
4 administrative proceedings, of any one or more of the  
5 following Acts:

6 (A) The Consumer Finance Act;

7 (B) The Consumer Installment Loan Act;

8 (C) The Retail Installment Sales Act;

9 (D) The Motor Vehicle Retail Installment Sales  
10 Act;

11 (E) The Interest Act;

12 (F) The Illinois Wage Assignment Act;

13 (G) Part 8 of Article XII of the Code of Civil  
14 Procedure; or

15 (H) The Consumer Fraud Act.

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

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

31 10. A statement that the applicant understands Chapter  
32 1 through Chapter 5 of this Code.

33 (c) Any change which renders no longer accurate any  
34 information contained in any application for a used vehicle  
35 dealer's license shall be amended within 30 days after the  
36 occurrence of each change on such form as the Secretary of

1 State may prescribe by rule or regulation, accompanied by an  
2 amendatory fee of \$2.

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

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

- 18 1. The name of the person licensed;
- 19 2. If a corporation, the name and address of its  
20 officers or if a sole proprietorship, a partnership, an  
21 unincorporated association or any similar form of business  
22 organization, the name and address of the proprietor or of  
23 each partner, member, officer, director, trustee or  
24 manager;
- 25 3. In case of an original license, the established  
26 place of business of the licensee;
- 27 4. In the case of a supplemental license, the  
28 established place of business of the licensee and the  
29 additional place of business to which such supplemental  
30 license pertains.

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

36 (g) Except as provided in subsection (h) of this Section,

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

19          (l) No license shall be issued to any franchised motor  
20          vehicle dealer or any independent motor vehicle dealer owned by  
21          a franchised motor vehicle dealer or its dealer-operator and  
22          operated by the dealer-operator of a franchised motor vehicle  
23          dealer, unless the dealer-operator holds a valid certificate of  
24          qualification issued by the Secretary of State. The certificate  
25          shall be issued only on application to the Secretary of State,  
26          payment of an application fee of no more than \$50 as determined  
27          by the Secretary of State, and successful completion of an  
28          examination approved by the Secretary of State. However, any  
29          individual who is the dealer-operator of a licensed dealer on  
30          July 1, 1995, shall be entitled to the license without  
31          examination on application to the Secretary of State made on or  
32          before January 1, 1996. The Secretary of State may established  
33          minimum qualifications for applicants and require applicants  
34          to satisfactorily complete courses of study or other  
35          prerequisites prior to taking the examination.

36          (m) No license shall be issued to any independent motor

1 vehicle dealer, except as permitted in subsection (a), unless  
2 the dealer-operator holds a valid certificate of qualification  
3 issued by the Secretary of State. The certificate shall be  
4 issued only on application to the Secretary of State, payment  
5 of an application fee of no more than \$50 as determined by the  
6 Secretary of State, and successful completion of an examination  
7 approved by the Secretary of State. The Secretary of State may  
8 establish minimum qualifications for applicants and, on and  
9 after January 1, 2007, shall require applicants for an original  
10 independent dealer-operator license issued pursuant to this  
11 subsection (m) to complete a course curriculum and to pay set  
12 course fees. The Secretary of State may approve qualified  
13 persons to prepare and present the courses and to administer  
14 the examination.

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