



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB2322

Introduced 2/18/2009, by Rep. Jim Sacia

SYNOPSIS AS INTRODUCED:

625 ILCS 5/5-102 from Ch. 95 1/2, par. 5-102
625 ILCS 5/5-102.5 new

Amends the Illinois Vehicle Code. Establishes a prelicensing education program for used vehicle dealers. Requires at least one person who is associated with a used vehicle dealer to complete a minimum of 8 hours of prelicensing education program courses prior to the dealership applying for a license with the Secretary of State. Provides that the Illinois Independent Automobile Dealers Association, in consultation with the Secretary of State, the Department of Transportation, and the Attorney General, shall develop the prelicensing course curricula for the used vehicle dealer education program, which shall include, but not be limited to, examination of federal and State laws applicable to the motor vehicle industry and federal and State regulations pertaining to used vehicle dealers. Provides that the education program courses shall be provided by the Illinois Independent Automobile Dealers Association. Effective August 1, 2009.

LRB096 09106 AJT 19249 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

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 and by adding Section 5-102.5 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

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

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

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

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

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

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

1 user's insurer shall be the secondary insurer.

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

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

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

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

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

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

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

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

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

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

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

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

8 (E) Section 21-2 of the Illinois Criminal Code of
9 1961, Criminal Trespass to Vehicles; or

10 (F) The Retailers' Occupation Tax Act.

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

19 (A) The Consumer Finance Act;

20 (B) The Consumer Installment Loan Act;

21 (C) The Retail Installment Sales Act;

22 (D) The Motor Vehicle Retail Installment Sales
23 Act;

24 (E) The Interest Act;

25 (F) The Illinois Wage Assignment Act;

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

1 Procedure; or

2 (H) The Consumer Fraud Act.

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

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

18 10. A statement that the applicant understands Chapter
19 1 through Chapter 5 of this Code.

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

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

1 amendatory fee of \$2.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 (2) the date of sale,

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

23 (4) the Illinois certificate of title number.

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

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

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

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

16 1. The year, make, model, style and color of the
17 vehicle;

18 2. The vehicle's manufacturer's identification number
19 or, if applicable, the Secretary of State or Illinois
20 Department of State Police identification number;

21 3. The date of acquisition of the vehicle;

22 4. The name and address of the person from whom the
23 vehicle was acquired;

24 5. The name and address of the person to whom any
25 vehicle was disposed, the person's Illinois license number
26 or if the person is an out-of-state salvage vehicle buyer,

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

3 6. The purchase price of the vehicle.

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

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

8 (625 ILCS 5/5-102.5 new)

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

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

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

20 (c) The Illinois Independent Automobile Dealers
21 Association, in consultation with the Secretary of State, the
22 Department of Transportation, and the Attorney General, shall
23 develop the prelicensing course curricula for the used vehicle
24 dealer education program, which shall include, but not be
25 limited to, examination of federal and State laws applicable to

1 the motor vehicle industry and federal and State regulations
2 pertaining to used vehicle dealers. The education program
3 courses shall be provided by the Illinois Independent
4 Automobile Dealers Association.

5 (d) The Illinois Independent Automobile Dealers
6 Association shall issue a certificate to each person who
7 successfully completes the prelicensing education program
8 under this Section. The current certificate of completion, or a
9 copy of the certificate, shall be posted conspicuously in the
10 principal office of the licensee.

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

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

16 (2) National motor vehicle auction companies;

17 (3) Wholesale dealer-only auction companies;

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

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

22 Section 99. Effective date. This Act takes effect August 1,
23 2009.