

# SB2860



## 99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

SB2860

Introduced 2/17/2016, by Sen. Jim Oberweis

### SYNOPSIS AS INTRODUCED:

625 ILCS 5/5-100	from Ch. 95 1/2, par. 5-100
625 ILCS 5/5-102.1	from Ch. 95 1/2, par. 5-102.1
625 ILCS 5/5-106	from Ch. 95 1/2, par. 5-106

Amends the Illinois Vehicle Code. Allows for the sale of motor vehicles by licensed dealers on any 6 days of the week to be chosen by the licensed dealers. Makes conforming changes. Effective immediately.

LRB099 20634 AXK 45222 b

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 Sections 5-100, 5-102.1, and 5-106 as follows:

6 (625 ILCS 5/5-100) (from Ch. 95 1/2, par. 5-100)

7 Sec. 5-100. Definitions. For the purposes of this Chapter,  
8 the following words shall have the meanings ascribed to them as  
9 follows:

10 "Additional place of business" means a place owned or  
11 leased and occupied by the dealer in addition to its  
12 established place of business, at which the dealer conducts or  
13 intends to conduct business on a permanent or long term basis.  
14 The term does not include an area where an off site sale or  
15 exhibition is conducted. The Secretary of State shall adopt  
16 guidelines for the administration and enforcement of this  
17 definition by rule.

18 "Display exhibition" means a temporary display of vehicles  
19 by a dealer licensed under Section 5-101 or 5-102, at a  
20 location at which no vehicles are offered for sale, that is  
21 conducted at a place other than the dealer's established and  
22 additional places of business.

23 "Established place of business" means the place owned or

1 leased and occupied by any person duly licensed or required to  
2 be licensed as a dealer for the purpose of engaging in selling,  
3 buying, bartering, displaying, exchanging or dealing in, on  
4 consignment or otherwise, vehicles and their essential parts  
5 and for such other ancillary purposes as may be permitted by  
6 the Secretary by rule. It shall include an office in which the  
7 dealer's records shall be separate and distinct from any other  
8 business or tenant which may occupy space in the same building  
9 except as provided in Section 5-101.1. This office shall not be  
10 located in a house trailer, residence, tent, temporary stand,  
11 temporary address, room or rooms in a hotel or rooming house,  
12 nor the premises occupied by a single or multiple unit  
13 residence. The established place of business of a scrap  
14 processor shall be the fixed location where the scrap processor  
15 maintains its principal place of business. The Secretary of  
16 State shall, by rule and regulation, adopt guidelines for the  
17 administration and enforcement of this definition, such as, but  
18 not limited to issues concerning the required hours of  
19 operation, describing where vehicles are displayed and offered  
20 for sale, where books and records are maintained and  
21 requirements for the fulfillment of warranties. A dealer may  
22 have an additional place of business as defined under this  
23 Section.

24 "Motor vehicle financing affiliate" means a business  
25 organization registered to do business in Illinois that,  
26 pursuant to a written contract with either (1) a single new or

1 used motor vehicle dealer or (2) a single group of new or used  
2 motor vehicle dealers that share a common ownership within the  
3 group, purchases new or used motor vehicles on behalf of the  
4 dealer or group of dealers and then sells, transfers, or  
5 assigns those motor vehicles to the dealer or group of dealers.  
6 The motor vehicle financing affiliate must be incorporated or  
7 organized solely to purchase new or used vehicles on behalf of  
8 the new or used motor vehicle dealer or group of dealers with  
9 which it has contracted, shall not sell motor vehicles at  
10 retail, shall perform only those business functions related to  
11 the purchasing of motor vehicles and selling, transferring, or  
12 assigning those motor vehicles to the dealer or group of  
13 dealers. The motor vehicle financing affiliate must be licensed  
14 under the provisions of Section 5-101.1 and must not be  
15 licensed as a new or used motor vehicle dealer.

16 "Off site sale" means the temporary display and sale of  
17 vehicles, for a period of not more than 7 calendar days  
18 (excluding Sundays or any other day chosen by a dealer), by a  
19 dealer licensed under Section 5-101 or 5-102 at a place other  
20 than the dealer's established and additional places of  
21 business.

22 "Relevant market area", for a new vehicle dealer licensed  
23 under Section 5-101 and for a used vehicle dealer licensed  
24 under Section 5-102, means the area within 10 miles of the  
25 established or additional place of business of the dealer  
26 located in a county with a population of 300,000 or more, or

1 within 15 miles if the established place of business is located  
2 in a county with a population of less than 300,000.

3 "Trade show exhibition" means a temporary display of  
4 vehicles, by dealers licensed under Section 5-101 or 5-102, or  
5 any other person as defined in subsection (c) of Section  
6 5-102.1, at a location at which no vehicles are offered for  
7 sale that is conducted at a place other than the dealer's  
8 established and additional places of business. In order for a  
9 display exhibition to be considered a trade show exhibition, it  
10 must be participated in by at least 3 dealers, 2 of which must  
11 be licensed under Section 5-101 or 5-102; and a trade show  
12 exhibition of new vehicles shall only be participated in by  
13 licensed new vehicle dealers at least 2 of which must be  
14 licensed under Section 5-101.

15 (Source: P.A. 90-89, eff. 1-1-98; 91-415, eff. 1-1-00.)

16 (625 ILCS 5/5-102.1) (from Ch. 95 1/2, par. 5-102.1)

17 Sec. 5-102.1. Permits for off site sales and exhibitions.

18 (a) A licensed new or used motor vehicle dealer licensed  
19 under Section 5-101 or 5-102 shall not engage in any off site  
20 sale without an off site sale permit issued by the Secretary  
21 under this Section.

22 The Secretary shall issue an off site sale permit to a  
23 dealer if:

24 (1) an application therefor is received by the  
25 Secretary prior to the beginning date of the proposed off

1 site sale, accompanied by a fee of \$25;

2 (2) the applicant is a licensed new vehicle dealer or  
3 used vehicle dealer in good standing; and

4 (3) the Secretary determines that the proposed off site  
5 sale will conform with the requirements imposed by law.

6 However, in no event shall an off site sale permit be  
7 issued to any licensed new or used vehicle dealer for any off  
8 site sale to be conducted outside that dealer's relevant market  
9 area, as that term is defined in this Chapter, except that this  
10 restriction shall not apply to off site sales of motor homes or  
11 recreational vehicles.

12 The provisions of this subsection shall not apply to  
13 self-contained motor homes, mini motor homes, van campers, and  
14 recreational trailers, including trailers designed and used to  
15 transport vessels or watercraft.

16 ~~An off site sale permit does not authorize the sale of~~  
17 ~~vehicles on a Sunday.~~

18 (b) Only a new or used vehicle dealer licensed under  
19 Section 5-101 or 5-102 may participate in a display exhibition  
20 and shall obtain a display exhibition permit issued by the  
21 Secretary under this Section.

22 The Secretary shall issue a display exhibition permit to a  
23 dealer if:

24 (1) an application therefor is received by the  
25 Secretary prior to the beginning date of the proposed  
26 exhibition, accompanied by a fee of \$10;

1           (2) the applicant is a licensed new vehicle dealer or  
2 used vehicle dealer in good standing; and

3           (3) the Secretary determines that the proposed  
4 exhibition will conform with the requirements imposed by  
5 law.

6           A display exhibition permit shall be valid for a period of  
7 no longer than 30 days.

8           (c) A licensed new or used motor vehicle dealer under  
9 Section 5-101 or 5-102, or any other person as defined in this  
10 Section, may participate in a trade show exhibition and must  
11 obtain a trade show exhibition permit issued by the Secretary  
12 under this Section.

13           The Secretary shall issue a trade show exhibition permit  
14 if:

15           (1) an application is received by the Secretary before  
16 the beginning date of the proposed trade show exhibition,  
17 accompanied by a fee of \$10;

18           (2) the applicant is a licensed new vehicle dealer or  
19 used vehicle dealer in good standing; and

20           (3) the Secretary determines that the proposed trade  
21 show exhibition shall conform with the requirements  
22 imposed by law.

23           A trade show exhibition permit shall be valid for a period  
24 of no longer than 30 days.

25           The provisions of this subsection shall not apply to  
26 self-contained motor homes, mini motor homes, van campers, and

1 recreational trailers, including trailers designed and used to  
2 transport vessels or watercraft.

3 The term "any other person" shall mean new or used vehicle  
4 dealers licensed by other states; provided however, a trade  
5 show exhibition of new vehicles shall only be participated in  
6 by licensed new vehicle dealers, at least 2 of which must be  
7 licensed under Section 5-101.

8 (d) An Illinois or out-of-state licensed new or used  
9 trailer dealer, manufactured home dealer, motor home dealer,  
10 mini motor home dealer, or van camper dealer shall not engage  
11 in any off site sale or trade show exhibition without first  
12 acquiring a permit issued by the Secretary under this  
13 subsection. However, the provisions of this Section shall not  
14 apply to a licensed trailer dealer selling a mobile home or  
15 manufactured housing, as defined in the Illinois Manufactured  
16 Housing and Mobile Home Safety Act, if the manufactured housing  
17 or mobile home has utilities permanently attached. The  
18 Secretary shall issue a permit to an Illinois dealer if:

19 (1) an application is received by the Secretary before  
20 the beginning date of the proposed off site sale or trade  
21 show exhibition, accompanied by a fee of \$25;

22 (2) the applicant is a licensed new or used vehicle  
23 dealer in good standing; and

24 (3) the Secretary determines that the proposed off site  
25 sale or trade show exhibition will conform with the  
26 requirements imposed by law.



1           The Secretary shall issue a permit to an out-of-state  
2 dealer if the requirements of subdivisions (1), (2), and (3) of  
3 this subsection (d) are met and at least 2 licensed Illinois  
4 dealers will participate in the off site sale or trade show  
5 exhibition.

6           A permit issued pursuant to this subsection shall allow for  
7 the sale of vehicles at either an off site sale or at a trade  
8 show exhibition. The permit shall be valid for a period not to  
9 exceed 30 days.

10          (e) The Secretary of State may adopt rules regulating the  
11 conduct of off site sales and exhibitions, and governing the  
12 issuance and enforcement of the permits authorized under this  
13 Section.

14          (Source: P.A. 90-718, eff. 1-1-99; 90-774, eff. 8-14-98;  
15 91-357, eff. 7-29-99.)

16           (625 ILCS 5/5-106) (from Ch. 95 1/2, par. 5-106)

17           Sec. 5-106. No person may keep open, operate, or assist in  
18 keeping open or operating any established or additional place  
19 of business for the purpose of buying, selling, bartering,  
20 exchanging, or leasing for a period of 1 year or more, or  
21 offering for sale, barter, exchange, or lease for a period of 1  
22 year or more, any motor vehicle, whether new or used, for more  
23 than 6 days a week chosen by the business owner ~~on the first~~  
24 ~~day of the week, commonly called Sunday;~~ provided, that this  
25 Section does not apply to the opening of an established or

1 additional place of business ~~on Sunday~~ for the following  
2 purposes:

3 (1) to sell petroleum products, tires or repair parts  
4 and accessories;

5 (2) to operate and conduct a motor vehicle repair shop;

6 (3) to supply services for the washing, towing or  
7 wrecking of motor vehicles;

8 (4) to participate in a trade show exhibition or  
9 display exhibition by a dealer who has been granted a  
10 permit by the Secretary of State pursuant to Section  
11 5-102.1 of this Article;

12 (5) to sell motorcycles, motor driven cycles,  
13 motorized pedalcycles when offered for sale by a dealer  
14 licensed under Sections 5-101 and 5-102 to sell only such  
15 motor vehicles;

16 (6) to offer for sale manufactured housing;

17 (7) to sell self-contained motor homes, mini motor  
18 homes, van campers and recreational trailers when offered  
19 for sale by a dealer at an established or additional place  
20 of business where only such vehicles are displayed or  
21 offered for sale. This exemption includes dealers with off  
22 site sales or trade show exhibition permits issued pursuant  
23 to subsection (d) of Section 5-102.1 of this Article.

24 (Source: P.A. 89-551, eff. 1-1-97.)

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