

HOUSE BILL NO. HB0221

Motor vehicles franchises-amendments.

Sponsored by: Representative(s) Edwards, Cohee, Johnson,
W. and Walsh and Senator(s) Barton, Coe, Erb
and Geis

A BILL

for

1 AN ACT relating to motor vehicle franchises; amending
2 definitions; providing for public or retail vehicle
3 auctions; providing for investigation of licensees and
4 temporary permits during investigation; providing for
5 enforcement; and providing for an effective date.

6

7 *Be It Enacted by the Legislature of the State of Wyoming:*

8

9 **Section 1.** 31-16-101(a)(xiv)(A) and (B),
10 (xviii)(intro) and by creating a new paragraph (xxxi),
11 31-16-102, 31-16-103(a)(v), (b)(intro), (c) by creating new
12 paragraphs (vii) and (viii), (g)(ii), (h)(intro) and by
13 creating a new subsection (k), 31-16-104(a) by creating new
14 paragraphs (vii) and (viii), 31-16-112 and 31-16-117(d) and
15 by creating a new subsection (e) are amended to read:

16

1 **31-16-101. Definitions.**

2

3 (a) As used in this act:

4

5 (xiv) "Principal place of business" means:

6

7 (A) For dealers selling fewer than ~~twenty-~~
8 ~~five~~ ~~(25)~~ twelve (12) vehicles per calendar year a
9 permanent commercial building located within the state of
10 Wyoming at which the business of a new motor vehicle dealer
11 may be lawfully carried on in accordance with the terms of
12 all applicable building codes, zoning and other land-use
13 regulatory ordinances, and in which building the public may
14 contact the vehicle dealer or his vehicle salesman at all
15 reasonable times, and at which place of business shall be
16 kept and maintained the books, records and files necessary
17 to conduct the business. The business shall be sufficiently
18 identified with an exterior sign permanently affixed to the
19 building or land with letters clearly visible from the
20 highway facing the site and designated to indicate the
21 nature of the business and the landline telephone number of
22 the business. A landline telephone shall be required in
23 the principal place of business;

24

1 (B) For dealers and public or retail
2 vehicle auctions selling ~~twenty-five (25)~~ twelve (12) or
3 more vehicles per calendar year a site upon which a
4 permanent building is located containing adequate
5 facilities to carry on the business of a licensed dealer or
6 a public or retail vehicle auction and used to conduct
7 business as a dealer or a public or retail vehicle auction
8 and not primarily used as, or attached directly to, a
9 residence, with space thereon or contiguous thereto
10 adequate to permit the display of at least five (5)
11 vehicles and sufficiently identified with an exterior sign
12 permanently affixed to the building or land with letters
13 clearly visible from the highway facing the site and
14 designated to indicate the nature of the business. The
15 facilities, sign and space for display shall be in
16 compliance with all applicable zoning ordinances prescribed
17 by the municipality or county in which they are located and
18 in which building the public may contact the vehicle
19 auctioneer, dealer or the dealer's salespersons during the
20 declared business hours, and at which place of business
21 shall be kept and maintained the books, records and files
22 as required by W.S. 31-11-107(a) and (b) necessary to
23 conduct the business. A telephone shall be required in the

1 principal place of business with a published phone number
2 listed to the principal place of business;

3

4 (xviii) "Vehicle dealer" or "dealer" means any
5 person engaged in the business of selling or exchanging
6 vehicles or who buys and sells, or exchanges retail three
7 (3) or more vehicles or six (6) or more new vehicles with a
8 gross vehicle weight rating over twenty-six thousand
9 (26,000) pounds in any ~~one (1) calendar year~~ twelve (12)
10 consecutive month period, but does not include any
11 insurance company, finance company, public utility company
12 or person coming into possession of any vehicle as an
13 incident to its regular business who sells that vehicle, or
14 who sells that vehicle under any contractual rights it may
15 have with respect thereto. Vehicle dealers are classified
16 as follows:

17

18 (xxxi) "Public or retail vehicle auction" means
19 any person required to be licensed under this act, who for
20 commission, compensation or other consideration engages in
21 the business of providing auction services at a principal
22 place of business in which the auction sells vehicles to
23 wholesale or retail buyers, including members of the
24 general public.

1

2 **31-16-102. Unlicensed vehicle dealers, public or**
3 **retail vehicle auctions and manufacturers prohibited.**

4

5 No person shall hold himself out as being in the business
6 of a retail seller of vehicles, or act as a retail vehicle
7 dealer, ~~or~~ Wyoming based manufacturer or a public or retail
8 vehicle auction without a valid license issued by the
9 department under this act. No person shall act as a
10 vehicle dealer of a new vehicle without a valid license as
11 a new vehicle dealer for new vehicles of the same line make
12 issued by the department under this act. No person other
13 than a licensed vehicle dealer shall display a vehicle for
14 sale unless the title is in the name of the displayer. No
15 person shall solicit sales of vehicles without a vehicle
16 dealer's license, unless the title is in the name of the
17 person soliciting sales.

18

19 **31-16-103. Licenses; applications; issuance,**
20 **suspension and revocation; change in ownership; rulemaking.**

21

22 (a) An applicant for a license required under this
23 act shall, before commencing business and annually

1 thereafter submit an application to the department in a
2 form prescribed by the department containing the following:

3

4 (v) Any other information the department may
5 reasonably require, including financial statements of new
6 applicants, past or present judicial, civil or
7 administrative dispositions of criminal, civil or
8 administrative actions relating to the conduct of the
9 business if currently licensed or a new applicant,
10 telephone numbers, sales and use tax numbers for the
11 business and declared business hours. Any new applicant for
12 a license issued under this act, including all officers of
13 a corporation or members of a limited liability company or
14 limited partnership, shall provide fingerprints and other
15 information necessary for a state and national criminal
16 history record background check and release of information
17 as provided in W.S. 7-19-106(k)(ii) and consent to the
18 release of any criminal history information to the
19 department;

20

21 (b) Pending determination by the department that the
22 applicant has met the requirements under this act, it may
23 issue a temporary license to any applicant. A temporary
24 license shall not exceed a period of ninety (90) days while

1 the department is completing its investigation and
2 determination of all facts relative to the qualifications
3 of the applicant for the license. The temporary license
4 terminates when the applicant's license has been issued or
5 refused. When the department determines the applicant has
6 complied with all licensing requirements, the department
7 shall issue a license or renewal to an applicant upon
8 submission of a complete application to the department
9 indicating the applicant is qualified and will operate from
10 a principal place of business if a dealer or from an
11 established place of business if a Wyoming based
12 manufacturer, and upon filing of a bond and payment of a
13 license fee of twenty-five dollars (\$25.00) for dealers
14 selling fewer than twelve (12) vehicles per calendar year
15 and one hundred dollars (\$100.00) for dealers selling
16 twelve (12) or more vehicles per calendar year as follows:

17

18 (c) The department may deny, suspend, revoke or
19 refuse to renew a license issued under this act if it finds
20 the person, applicant, vehicle dealer, salesperson, agent
21 or Wyoming based manufacturer:

22

23 (vii) Has been convicted of a felony involving
24 forgery, embezzlement, obtaining money under false

1 pretenses, larceny, extortion, fraud or conspiracy to
2 commit fraud;

3
4 (viii) Failed to furnish any requested
5 information to the department.

6
7 (g) A Wyoming licensed dealer may establish and
8 operate an additional place of business or operate in an
9 organized motor vehicle show as a vehicle dealer if:

10
11 (ii) Before operating in an organized motor
12 vehicle show, a licensed dealer shall notify the department
13 in writing not later than fourteen (14) days prior to the
14 date of the show and obtain a letter of authorization from
15 the department to operate in an organized motor vehicle
16 show within the county of the principal place of business,
17 or within the dealer's relevant market area as defined by
18 W.S. 31-16-101(a)(xv). A vehicle dealer may operate in not
19 more than four (4) shows in any calendar year and each show
20 shall not exceed seven (7) consecutive days. The letter of
21 authorization to operate in an organized motor vehicle show
22 shall be displayed in a location at the motor vehicle show
23 where any peace officer or designated member of the
24 department can examine it. As used in this subsection,

1 "organized motor vehicle show" means an exhibition and sale
2 by one (1) or more licensed motor vehicle dealers in a
3 private or public assembly, facility or area.

4
5 (h) An applicant for a license to operate as a dealer
6 or Wyoming based manufacturer shall also file with the
7 department a bond in the sum of ~~ten thousand dollars~~
8 ~~(\$10,000.00)~~ twenty thousand dollars (\$20,000.00) with a
9 corporate surety duly licensed to do business within this
10 state. The bond shall:

11

12 (k) If the director has reasonable cause to believe
13 that a licensee or other person has violated or is
14 violating any provision of this act or any other law
15 related to the conduct of a vehicle dealer or has violated
16 or is violating any rule or order adopted or issued by the
17 department pursuant to law, in addition to any other
18 remedies existing in this act, the director may bring and
19 maintain, in the name and on behalf of the department, an
20 action in the proper court against a licensee or other
21 person to restrain or enjoin the licensee or other person
22 from continuing the violation. In the action, the court
23 shall proceed as in other actions for injunction.

24

1 **31-16-104. Classes of licenses; expiration.**

2

3 (a) Licenses issued under this act shall be the
4 following classes:

5

6 (vii) Temporary ninety (90) day vehicle dealer
7 permit allows an applicant to operate a business under this
8 act for a period of ninety (90) days while the department
9 is completing an investigation for any purpose relative to
10 the business. The temporary permit terminates when the
11 applicant's license has been issued or refused but in no
12 case shall the temporary permit exceed ninety (90) days;

13

14 (viii) Public or retail vehicle auction license
15 permits a licensee to operate as a vehicle auction
16 providing auction services at a principal place of business
17 in which the auction sells vehicles to wholesale or retail
18 buyers, including members of the general public. No
19 governmental entity shall be required to have a public or
20 retail vehicle auction license in order to conduct vehicle
21 auctions.

22

23 **31-16-112. Penalty.**

24

1 (a) Any person, Wyoming based manufacturer, vehicle
2 dealer, salesperson or agent who violates this act or any
3 rule or regulation promulgated under this act is guilty of
4 a misdemeanor punishable by a fine of not more than seven
5 hundred fifty dollars (\$750.00), imprisonment for not more
6 than six (6) months, or both.

7

8 (b) The highway patrol division and other enforcement
9 officers as the department designates are charged with the
10 duty of policing and enforcing the provisions of this act.
11 The designated enforcement officers have authority to issue
12 citations for violations of any of the provisions of this
13 act.

14

15 **31-16-117. Payment for delivery preparation and**
16 **warranty service.**

17

18 (d) All claims made by new vehicle dealers pursuant
19 to this section for labor and parts shall be paid or
20 credited within thirty (30) days following their approval.
21 The manufacturer may audit claims and charge the dealer for
22 unsubstantiated, incorrect, false or fraudulent claims for
23 a period of ~~two (2) years~~ one (1) year following payment.
24 All claims shall be either approved or disapproved within

1 thirty (30) days after their receipt, on forms or by
2 computerized communication and in the manner specified by
3 the manufacturer including a computerized communications
4 system. Any claim not specifically disapproved in writing
5 or through electronic communication within thirty (30) days
6 after receipt is construed to be approved and payment shall
7 be made within thirty (30) days.

8
9 (e) This section shall apply to each manufacturer or
10 distributor of motor vehicles, medium-duty truck components
11 or engines who provides integral parts of vehicles or major
12 components by selling directly to dealers or enters into a
13 contract with a motor vehicle, medium-duty or heavy-duty
14 truck dealer which authorizes the dealer to perform
15 warranty or other services on products produced or
16 distributed.

17
18 **Section 2.** W.S. 31-16-104(b) is repealed.

19
20 **Section 3.** This act is effective July 1, 2003.

21
22 (END)