

SENATE BILL No. 295

By Committee on Transportation

2-6

9 AN ACT amending the vehicle dealers and manufacturers licensing act;
10 relating to salvage vehicle pool dealers; providing for a buyer identi-
11 fication card; amending K.S.A. 8-135c and 8-2401 and K.S.A. 2006
12 Supp. 8-2404 and repealing the existing sections; also repealing K.S.A.
13 8-2436.

14
15 *Be it enacted by the Legislature of the State of Kansas:*

16 New Section 1. (a) Any person licensed as a salvage vehicle dealer
17 under K.S.A. 8-2401 et seq., and amendments thereto, who wishes to
18 purchase nonrepairable vehicles, as defined in K.S.A. 8-135c, and amend-
19 ments thereto, or salvage vehicles, as defined in K.S.A. 8-197, and amend-
20 ments thereto, from an auction motor vehicle dealer or salvage vehicle
21 pool dealer, shall make application to the division for a buyer's identifi-
22 cation card. The application shall be on a form prescribed by the director
23 and shall contain the applicant's name, principal business address, the
24 license number under which the applicant will be making purchases and
25 such other information as the director may require. In lieu of directly
26 obtaining a buyer's identification card or in addition thereto, any person
27 licensed as a salvage vehicle dealer, may designate up to two employees
28 to act as buyers for the licensee. The licensee shall make application for
29 a buyer's identification card for each employee in the same manner as
30 for a card for the licensee.

31 (b) Sales of nonrepairable vehicles or salvage vehicles from auction
32 motor vehicle dealers or salvage vehicle pool dealers, shall be opened
33 only to persons possessing a Kansas buyer's identification card as provided
34 in subsection (a). Auction motor vehicle dealers and salvage vehicle pool
35 dealers shall at the time of sale of nonrepairable vehicles or salvage ve-
36 hicles, disclose the full vehicle identification number of each vehicle, the
37 owner or each vehicle and the identity of each bidder.

38 (c) An annual fee shall be charged for each identification card issued
39 as follows:

- 40 (1) For Kansas licensee, \$10; and
41 (2) for out-of-state licensee, \$250.

42 (d) A buyer's identification card is nontransferable. If the holder of a
43 card no longer possesses a valid salvage dealer license or if an employee

1 of the licensee leaves the employment of the licensee, the buyer's iden-
2 tification card of that person is invalid and the holder shall return the
3 card to the division.

4 (e) Any person who holds a valid salvage vehicle dealer's license from
5 another state that imposes qualifications and requirements with respect
6 to the license that are equivalent to those required by K.S.A. 8-2401 et
7 seq., and amendments thereto, may make application to the director who
8 shall, based upon the director's investigation, issue a buyer's identification
9 card to those applicants who the director determines are qualified.

10 (f) A buyer's identification card may be denied, suspended or revoked
11 or a renewal may be refused by the director on any of the applicable
12 grounds listed in K.S.A. 8-2410, and amendments thereto. In addition,
13 the director may revoke or suspend the license of a salvage vehicle dealer
14 who allows such dealer's buyer's identification card or the buyer's iden-
15 tification card of an employee to be used by any unauthorized person.

16 (g) This section shall be a part of and supplemental to the vehicle
17 dealers and manufacturers licensing act.

18 Sec. 2. K.S.A. 8-135c is hereby amended to read as follows: 8-135c.

19 (a) The provisions of this section shall be a part of and supplemental to
20 the provisions of article 1 of chapter 8 of the Kansas Statutes Annotated,
21 and as used in this section, the words and phrases defined by K.S.A. 8-
22 126, and amendments thereto, shall have the meanings respectively as-
23 cribed to them therein.

24 (b) As used in this section:

25 (1) "Nonrepairable vehicle" means any motor vehicle which: (A) Has
26 been damaged, destroyed, wrecked, burned or submerged in water to the
27 extent that such motor vehicle is incapable of safe operation for use on
28 roads or highways and has no resale value except as a source of parts or
29 scrap only; or (B) the owner irreversibly designates as a source of parts
30 or scrap;

31 (2) "nonrepairable vehicle certificate" means a motor vehicle own-
32 ership document issued by the division designating that vehicle a non-
33 repairable vehicle.

34 (c) (1) Except as otherwise provided by this section, the owner of a
35 vehicle that meets the definition of a nonrepairable vehicle shall apply to
36 the division for a nonrepairable vehicle certificate before the ownership
37 of the motor vehicle is transferred. In no event shall such application be
38 made more than 30 days after the vehicle is determined to be a nonre-
39 pairable vehicle.

40 (2) Every insurance company, which pursuant to a damage settle-
41 ment, acquires ownership of a vehicle that has incurred damage requiring
42 the vehicle to be designated a nonrepairable vehicle, shall apply to the
43 division for a nonrepairable vehicle certificate within 30 days after the

1 title is assigned and delivered by the owner to the insurance company,
2 with all liens released.

3 (3) Every insurance company which makes a damage settlement for
4 a vehicle that has incurred damage requiring such vehicle to be desig-
5 nated a nonrepairable vehicle, but does not acquire ownership of the
6 vehicle, shall notify the vehicle owner of the owner's obligation to apply
7 to the department for a nonrepairable vehicle certificate for the motor
8 vehicle, and shall notify the division of this fact in accordance with pro-
9 cedures established by the division. The vehicle owner shall apply to the
10 division for a nonrepairable vehicle certificate within 30 days after being
11 notified by the insurance company.

12 (4) The lessee of any vehicle which incurs damage requiring the ve-
13 hicle to be designated a nonrepairable vehicle shall notify the lessor of
14 this fact within 30 days of the determination that the vehicle is a nonre-
15 pairable vehicle.

16 (5) The lessor of any motor vehicle which has incurred damage re-
17 quiring the vehicle to be titled as a nonrepairable vehicle, shall apply to
18 the division for a nonrepairable vehicle certificate within 30 days after
19 being notified of this fact by the lessee.

20 (6) Every person acquiring ownership of a motor vehicle that meets
21 the definition of a nonrepairable vehicle, for which a nonrepairable ve-
22 hicle certificate has not been issued, shall apply to the division for the
23 required document prior to any further transfer of such vehicle, but in
24 no event, more than 30 days after ownership is acquired.

25 (7) Failure to apply for a nonrepairable vehicle certificate as provided
26 by this subsection shall be a class C nonperson misdemeanor.

27 (d) (1) Upon notification of a vehicle's designation as a nonrepairable
28 vehicle, the division shall issue a nonrepairable vehicle certificate.

29 (2) Each nonrepairable vehicle certificate shall contain the same
30 identifying information and comply with format, size and security require-
31 ments applicable to certificates of title under K.S.A. 8-135, and amend-
32 ments thereto, and shall be conspicuously labeled with this designation
33 on the face of the certificate.

34 (3) Each application for a nonrepairable vehicle certificate shall be
35 accompanied by the fee required for an original certificate of title under
36 K.S.A. 8-135, and amendments thereto, and if the application is not made
37 within the time prescribed by subsection (c), an additional fee of \$2.

38 (e) (1) No motor vehicle for which a nonrepairable vehicle certificate
39 has been issued shall be titled or registered by the division for use on the
40 roads or highways of this state.

41 (2) Ownership of the motor vehicle for which a nonrepairable vehicle
42 certificate has been issued may only be transferred once *to a licensed*
43 *salvage vehicle dealer*.

1 (3) Any motor vehicle transferred through the use of a nonrepairable
2 vehicle certificate shall be dismantled, disassembled or recycled and may
3 not be sold as a unit at retail.

4 When the nonrepairable vehicle has been dismantled, disassembled or
5 recycled and such vehicle is sold to a scrap processor for recycling after
6 the salvageable parts have been removed, the owner shall surrender the
7 nonrepairable vehicle certificate to the division with the word recycled
8 written or stamped across its face and no certificate of title of any type
9 shall be issued nor any registration allowed again for such vehicle.

10 (4) A nonrepairable vehicle certificate may be used to transfer own-
11 ership of a motor vehicle 10 or more model years of age, in accordance
12 with this section, when the owner does not have a certificate of title in
13 the owner's possession.

14 (f) The secretary of the department of revenue may adopt rules and
15 regulations as the secretary deems necessary to carry out the provisions
16 of this section.

17 Sec. 3. K.S.A. 8-2401 is hereby amended to read as follows: 8-2401.
18 As used in this act, the following words and phrases shall have the
19 meanings:

20 (a) "Vehicle dealer" means any person who: (1) For commission,
21 money or other thing of value is engaged in the business of buying, selling
22 or offering or attempting to negotiate a sale of an interest in vehicles; ~~or~~
23 (2) for commission, money or other thing of value is engaged in the busi-
24 ness of buying, selling or offering or attempting to negotiate a sale of an
25 interest in motor vehicles as an auction motor vehicle dealer as defined
26 in (bb); or (3) for commission, money or other thing of value is engaged
27 in the business of storing, displaying and offering for sale salvage vehicles
28 as a salvage vehicle pool dealer as defined in (hh); but does not include:
29 (A) Receivers, trustees, administrators, executors, guardians, or other per-
30 sons appointed by or acting under the judgment or order of any court, or
31 any bank, trustee or lending company or institution which is subject to
32 state or federal regulations as such, with regard to its disposition of re-
33 possessed vehicles; (B) public officers while performing their official du-
34 ties; (C) employees of persons enumerated in provisions (A) and (B),
35 when engaged in the specific performance of their duties as such em-
36 ployees; (D) auctioneers conducting auctions for persons enumerated in
37 provisions (A), (B) or (C); or (E) auctioneers who, while engaged in con-
38 ducting an auction of tangible personal property for others, offer for sale:
39 (i) Vehicles which have been used primarily in a farm or business oper-
40 ation by the owner offering the vehicle for sale, including all vehicles
41 which qualified for a farm vehicle tag at the time of sale except vehicles
42 owned by a business engaged primarily in the business of leasing or rent-
43 ing passenger cars; (ii) vehicles which meet the statutory definition of

- 1 antique vehicles; or (iii) vehicles for no more than four principals or
2 households per auction. All sales of vehicles exempted pursuant to pro-
3 vision (E), except truck, truck tractors, pole trailers, trailers and semi-
4 trailers as defined by K.S.A. 8-126, and amendments thereto, shall be
5 registered in Kansas prior to the sale.
- 6 (b) “New vehicle dealer” means any vehicle dealer who is a party to
7 an agreement, with a first or second stage manufacturer or distributor,
8 which agreement authorizes the vehicle dealer to sell, exchange or trans-
9 fer new motor vehicles, trucks, motorcycles, or trailers or parts and ac-
10 cessories made or sold by such first or second stage manufacturer or
11 distributor and obligates the vehicle dealer to fulfill the warranty com-
12 mitments of such first or second stage manufacturer or distributor.
- 13 (c) “Used vehicle dealer” means any person actively engaged in the
14 business of buying, selling or exchanging used vehicles.
- 15 (d) “Vehicle salesperson” means any person who is employed as a
16 salesperson by a vehicle dealer to sell vehicles.
- 17 (e) “Board” means the vehicle dealer review board created by this
18 act.
- 19 (f) “Director” means the director of vehicles, or a designee of the
20 director.
- 21 (g) “Division” means the division of vehicles of the department of
22 revenue.
- 23 (h) “Vehicle” means every device in, upon or by which any person or
24 property is or may be transported or drawn upon a public highway, and
25 is required to be registered under the provisions of article 1 of chapter 8
26 of Kansas Statutes Annotated except that such term shall not include
27 motorized bicycles, and such term shall not include manufactured homes
28 or mobile homes. As used herein, the terms “manufactured home” and
29 “mobile home” shall have the meanings ascribed to them by K.S.A. 58-
30 4202, and amendments thereto.
- 31 (i) “Motor vehicle” means any vehicle other than a motorized bicycle,
32 which is self-propelled and is required to be registered under the provi-
33 sions of article 1 of chapter 8 of Kansas Statutes Annotated.
- 34 (j) “Licensor” means the director or division or both.
- 35 (k) “First stage manufacturer” means any person who manufactures,
36 assembles and sells new vehicles to new vehicle dealers for resale in this
37 state.
- 38 (l) “Second stage manufacturer” means any person who assembles,
39 installs or permanently affixes body, cab or special unit equipment to a
40 chassis supplied by a first stage manufacturer, distributor or other sup-
41 plier and sells the resulting new vehicles to new vehicle dealers for resale
42 in this state.
- 43 (m) “First stage converter” means any person who is engaged in the

- 1 business of affixing to a chassis supplied by a first stage manufacturer,
2 distributor or other supplier, specially constructed body units to result in
3 motor vehicles used as, but not limited to, buses, wreckers, cement trucks
4 and trash compactors.
- 5 (n) "Second stage converter" means any person who is engaged in
6 the business of adding to, subtracting from or modifying previously as-
7 sembled or manufactured vehicles and sells the resulting converted ve-
8 hicles at retail or wholesale.
- 9 (o) "Distributor" means any person who sells or distributes for resale
10 new vehicles to new vehicle dealers in this state or who maintains dis-
11 tributor representatives in this state.
- 12 (p) "Wholesaler" means any person who purchases vehicles for the
13 purpose of resale to a vehicle dealer.
- 14 (q) "Factory branch" means any branch office maintained in this state
15 by a first or second stage manufacturer for the sale of new vehicles to
16 distributors, or for the sale of new vehicles to new vehicle dealers, or for
17 directing or supervising, in whole or in part, its representatives in this
18 state.
- 19 (r) "Distributor branch" means any branch office similar to subsec-
20 tion (q) maintained by a distributor for the same purposes as a factory
21 branch.
- 22 (s) "Factory representative" means a representative employed by a
23 first or second stage manufacturer or factory branch for the purpose of
24 making or promoting the sale of its new vehicles to new vehicle dealers,
25 or for supervising or contacting its new vehicle dealers or prospective new
26 vehicle dealers with respect to the promotion and sale of such vehicles
27 and parts or accessories for the same.
- 28 (t) "Distributor representative" means any representative similar to
29 subsection (s) employed by a distributor or distributor branch for the
30 same purpose as a factory representative.
- 31 (u) "Person" means any natural person, partnership, firm, corpora-
32 tion or association.
- 33 (v) "New motor vehicle" means any motor vehicle which has never
34 been titled or registered and has not been substantially driven or
35 operated.
- 36 (w) "Franchise agreement" means any contract or franchise or any
37 other terminology used to describe the contractual relationship between
38 first or second stage manufacturers, distributors and vehicle dealers, by
39 which:
- 40 (1) A right is granted one party to engage in the business of offering,
41 selling or otherwise distributing goods or services under a marketing plan
42 or system prescribed in substantial part by the other party, and in which
43 there is a community of interest in the marketing of goods or services at

1 wholesale or retail, by lease, agreement or otherwise; and

2 (2) the operation of the grantee's business pursuant to such agree-
3 ment is substantially associated with the grantor's trademark, service
4 mark, trade name, logotype, advertising or other commercial symbol des-
5 ignating the grantor or an affiliate of the grantor.

6 (x) "Broker" means any person who, for a fee, commission, money,
7 other thing of value, valuable consideration or benefit, either directly or
8 indirectly, arranges or offers to arrange a transaction involving the sale of
9 a vehicle, or is engaged in the business of: (1) Selling or buying vehicles
10 for other persons as an agent, middleman or negotiator; or (2) bringing
11 buyers and sellers of vehicles together, but such term shall not include
12 any person registered as a salvage vehicle pool or any person engaged in
13 a business in which the acts described in this subsection are only inci-
14 dentally performed or which are performed or authorized within the
15 requirements or scope of any other category of license, or not prohibited,
16 in the manner authorized by the vehicle dealers' and manufacturers' li-
17 censing act.

18 (y) "Salvage vehicle dealer" means any person engaged in the busi-
19 ness of buying, selling or exchanging used vehicles and primarily engaged
20 in the business of the distribution at wholesale or retail of used motor
21 vehicle parts and includes establishments primarily engaged in disman-
22 tling motor vehicles for the purpose of selling parts.

23 (z) "Lending agency" means any person, desiring to be licensed under
24 this act and engaged in the business of financing or lending money
25 to any person to be used in the purchase or financing of a vehicle.

26 (aa) "Established place of business" means a building or structure,
27 other than a building or structure all or part of which is occupied or used
28 as a residence, owned either in fee or leased and designated as an office
29 or place to receive mail and keep records and conduct the routine of
30 business. To qualify as an established place of business, there shall be
31 located therein an operable telephone which shall be listed with the tel-
32 ephone company under the name of the licensed business, except that a
33 vehicle dealer who derives at least 50% of such person's income from
34 operating a farm as a resident thereof, the established place of business
35 may be the farm residence of such vehicle dealer and the operable tele-
36 phone may be located in such residence when such dealer engages only
37 in vehicles and equipment not required to have vehicle registration to
38 travel on a highway.

39 (bb) "Auction motor vehicle dealer" means any person who for com-
40 mission, money or other thing of value is engaged in an auction of motor
41 vehicles except that the sales of such motor vehicles shall involve only
42 motor vehicles owned by licensed motor vehicle dealers and sold to li-
43 censed motor vehicle dealers, except that any auction motor vehicle

1 dealer, registered as such and lawfully operating prior to June 30, 1980,
2 shall be deemed to be and have been properly licensed under this act
3 from and after July 1, 1980. For the purposes of this subsection, an auc-
4 tion is a private sale of motor vehicles where any and all licensed motor
5 vehicle dealers who choose to do so are permitted to attend and offer
6 bids and the private sale of such motor vehicles is to the highest bidder.

7 (cc) "Licensee" means any person issued a valid license pursuant to
8 this act.

9 (dd) "Dealer" means a vehicle dealer as defined by this act, unless
10 the context otherwise requires.

11 (ee) "Insurance company" means any person desiring to be licensed
12 under this act and engaged in the business of writing or servicing insur-
13 ance related to vehicles.

14 (ff) "Supplemental place of business" means a business location other
15 than that of the established place of business of the dealer which may be
16 operated by the dealer on a continuous year-round basis and, for new
17 vehicle dealers, is within the defined area of responsibility in their fran-
18 chise agreement, and for all other dealers is within the same city or county
19 where the established place of business of the dealer is operated.

20 (gg) "Salvage yard" means the place owned or leased and regularly
21 occupied by a person, firm or corporation licensed under the provisions
22 of this act for the principal purpose of engaging in the business of a salvage
23 vehicle dealer. Salvage yard shall include the location where the:

24 (1) Products for sale are displayed and offered for sale;
25 (2) books and records required for the conduct of the business are
26 maintained;

27 (3) records are kept in the normal daily business activity; and

28 (4) records are made available for inspection.

29 (hh) "Salvage vehicle pool *dealer*" means any person who as an agent
30 for a third party is primarily engaged in the business of storing, displaying
31 and offering for sale salvage vehicles.

32 (ii) "Major component part" means any vehicle part including the
33 front clip, rear clip, doors, frame, chassis, engine, transmission, transaxle,
34 cab, bed and box bearing the public vehicle identification number or
35 engine number, if manufactured prior to 1981; or any vehicle part bearing
36 a derivative of such number.

37 (jj) "Recreational motor vehicle" means a recreational vehicle as de-
38 fined by subsection (f) of K.S.A. 75-1212, and amendments thereto.

39 Sec. 4. K.S.A. 2006 Supp. 8-2404 is hereby amended to read as fol-
40 lows: 8-2404. (a) No vehicle dealer shall engage in business in this state
41 without obtaining a license as required by this act. Any vehicle dealer
42 holding a valid license and acting as a vehicle salesperson shall not be
43 required to secure a salesperson's license.

1 (b) No first stage manufacturer, second stage manufacturer, factory
2 branch, factory representative, distributor branch or distributor represen-
3 tative shall engage in business in this state without a license as required
4 by this act, regardless of whether or not an office or other place of busi-
5 ness is maintained in this state for the purpose of conducting such
6 business.

7 (c) An application for a license shall be made to the director and shall
8 contain the information provided for by this section, together with such
9 other information as may be deemed reasonable and pertinent, and shall
10 be accompanied by the required fee. The director may require in the
11 application, or otherwise, information relating to the applicant's solvency,
12 financial standing, or other pertinent matter commensurate with the safe-
13 guarding of the public interest in the locality in which the applicant pro-
14 poses to engage in business, all of which may be considered by the di-
15 rector in determining the fitness of the applicant to engage in business
16 as set forth in this section. The director may require the applicant for
17 licensing to appear at such time and place as may be designated by the
18 director for examination to enable the director to determine the accuracy
19 of the facts contained in the written application, either for initial licensure
20 or renewal thereof. Every application under this section shall be verified
21 by the applicant.

22 (d) All licenses shall be granted or refused within 30 days after ap-
23 plication is received by the director. All licenses, except licenses issued
24 to salespersons, shall expire, unless previously suspended or revoked, on
25 December 31 of the calendar year for which they are granted, except that
26 where a complaint respecting the cancellation, termination or nonrenewal
27 of a sales agreement is in the process of being heard, no replacement
28 application shall be considered until a final order is issued by the director.
29 Applications for renewals, except for renewals of licenses issued to sales-
30 persons, received by the director after February 15 shall be considered
31 as new applications. All salespersons' licenses issued on or after January
32 1, 1987, shall expire on June 30, 1988, and thereafter shall expire, unless
33 previously suspended or revoked, on June 30 of the calendar year for
34 which they are granted. Applications for renewals of salespersons' licenses
35 received by the director after July 15 shall be considered as new appli-
36 cations. All licenses for supplemental places of business existing or issued
37 on or after January 1, 1994, shall expire on December 31, 1994, unless
38 previously expired, suspended or revoked, and shall thereafter expire on
39 December 31 of the calendar year for which they are granted, unless
40 previously suspended or revoked.

41 (e) License fees for each calendar year, or any part thereof shall be
42 as follows:

43 (1) For new vehicle dealers, \$75;

- 1 (2) for distributors, \$75;
- 2 (3) for wholesalers, \$75;
- 3 (4) for distributor branches, \$75;
- 4 (5) for used vehicle dealers, \$75;
- 5 (6) for first and second stage manufacturers, \$225 plus \$75 for each
- 6 factory branch in this state;
- 7 (7) for factory representatives, \$50;
- 8 (8) for distributor representatives, \$50;
- 9 (9) for brokers, \$75;
- 10 (10) for lending agencies, \$50;
- 11 (11) for first and second stage converters, \$50;
- 12 (12) for salvage vehicle dealers, \$75;
- 13 (13) for auction motor vehicle dealers, \$75;
- 14 (14) for vehicle salesperson, \$25; ~~and~~
- 15 (15) for insurance companies, \$75; *and*
- 16 (16) *for salvage vehicle pool dealers, \$75.*

17 Any new vehicle dealer who is also licensed as a used vehicle dealer
18 shall be required to pay only one \$75 fee for both licenses.

19 (f) Dealers may establish approved supplemental places of business
20 within the same county of their licensure or, with respect to new vehicle
21 dealers, within their area of responsibility as defined in their franchise
22 agreement. Those doing so shall be required to pay a supplemental license
23 fee of \$35. In addition to any other requirements, new vehicle dealers
24 seeking to establish supplemental places of business shall also comply with
25 the provisions of K.S.A. 8-2430 through 8-2432, and amendments thereto.
26 A new vehicle dealer establishing a supplemental place of business in a
27 county other than such dealer's county of licensure but within such
28 dealer's area of responsibility as defined in such dealer's franchise agree-
29 ment shall be licensed only to do business as a new motor vehicle dealer
30 in new motor vehicles at such supplemental place of business. Original
31 inspections by the division of a proposed established place of business
32 shall be made at no charge except that a \$30 fee shall be charged by the
33 division for each additional inspection the division must make of such
34 premises in order to approve the same.

35 (g) The license of all persons licensed under the provisions of this act
36 shall state the address of the established place of business, office, branch
37 or supplemental place of business and must be conspicuously displayed
38 therein. The director shall endorse a change of address on a license with-
39 out charge if: (1) The change of address of an established place of busi-
40 ness, office, branch or supplemental place of business is within the same
41 county; or (2) the change of address of a supplemental place of business,
42 with respect to a new vehicle dealer, is within such dealer's area of re-
43 sponsibility as defined in their franchise agreement. A change of address

1 of the established place of business, office or branch to a different county
2 shall require a new license and payment of the required fees but such
3 new license and fees shall not be required for a change of address of a
4 supplemental place of business, with respect to a new vehicle dealer, to
5 a different county but within the dealer's area of responsibility as defined
6 in their franchise agreement.

7 (h) Every salesperson, factory representative or distributor represen-
8 tative shall carry on their person a certification that the person holds a
9 valid state license. The certification shall name the person's employer and
10 shall be displayed upon request. An original copy of the state license for
11 a vehicle salesperson shall be mailed or otherwise delivered by the divi-
12 sion to the employer of the salesperson for public display in the em-
13 ployer's established place of business. When a salesperson ceases to be
14 employed as such, the former employer shall mail or otherwise return
15 the original copy of the employee's state license to the division. A sales-
16 person, factory representative or distributor representative who termi-
17 nates employment with one employer may file an application with the
18 director to transfer the person's state license in the name of another
19 employer. The application shall be accompanied by a \$12 transfer fee. A
20 salesperson, factory representative or distributor representative who ter-
21 minates employment, and does not transfer the state license, shall mail
22 or otherwise return the certification that the person holds a valid state
23 license to the division.

24 (i) If the director has reasonable cause to doubt the financial respon-
25 sibility or the compliance by the applicant or licensee with the provisions
26 of this act, the director may require the applicant or licensee to furnish
27 and maintain a bond in such form, amount and with such sureties as the
28 director approves, but such amount shall be not less than \$5,000 nor more
29 than \$20,000, conditioned upon the applicant or licensee complying with
30 the provisions of the statutes applicable to the licensee and as indemnity
31 for any loss sustained by a retail or wholesale buyer or seller of a vehicle
32 by reason of any act by the licensee constituting grounds for suspension
33 or revocation of the license. Every applicant or licensee who is or applies
34 to be a used vehicle dealer or a new vehicle dealer shall furnish and
35 maintain a bond in such form, amount and with such sureties as the
36 director approves, conditioned upon the applicant or licensee complying
37 with the provisions of the statutes applicable to the licensee and as in-
38 demnity for any loss sustained by a retail or wholesale buyer or seller of
39 a vehicle by reason of any act by the licensee in violation of any act which
40 constitutes grounds for suspension or revocation of the license. The
41 amount of such bond shall be as follows: (1) For any new applicant
42 \$30,000; or (2) for any current licensee, \$15,000, until the renewal date
43 of the existing bond, then \$30,000, except that on and after January 1,

1 2003, the amount of such bond shall be \$30,000. To comply with this
2 subsection, every bond shall be a corporate surety bond issued by a com-
3 pany authorized to do business in the state of Kansas and shall be executed
4 in the name of the state of Kansas for the benefit of any aggrieved retail
5 or wholesale buyer or seller of a vehicle. The aggregate liability of the
6 surety for all breaches of the conditions of the bond in no event shall
7 exceed the amount of such bond. The surety on the bond shall have the
8 right to cancel the bond by giving 30 days' notice to the director, and
9 thereafter the surety shall be relieved of liability for any breach of con-
10 dition occurring after the effective date of cancellation. Bonding require-
11 ments shall not apply to first or second stage manufacturers, factory
12 branches, factory representatives or salespersons. Upon determination by
13 the director that a judgment from a Kansas court of competent jurisdic-
14 tion is a final judgment and that the judgment resulted from an act in
15 violation of this act or would constitute grounds for suspension, revoca-
16 tion, refusal to renew a license or administrative fine pursuant to K.S.A.
17 8-2411, and amendments thereto, the proceeds of the bond on deposit
18 or in lieu of bond provided by subsection (j), shall be paid. The deter-
19 mination by the director under this subsection is hereby specifically ex-
20 empted from the Kansas administrative procedure act (K.S.A. 77-501
21 through 77-549, and amendments thereto,) and the act for judicial review
22 and civil enforcement of agency actions (K.S.A. 77-601 through 77-627,
23 and amendments thereto). Any proceeding to enforce payment against a
24 surety following a determination by the director shall be prosecuted by
25 the judgment creditor named in the final judgment sought to be enforced.
26 Upon a finding by the court in such enforcement proceeding that a surety
27 has wrongfully failed or refused to pay, the court shall award reasonable
28 attorney fees to the judgment creditor.

29 (j) An applicant or licensee may elect to satisfy the bonding require-
30 ments of subsection (i) by depositing with the state treasurer cash, ne-
31 gotiable bonds of the United States or of the state of Kansas or negotiable
32 certificates of deposit of any bank organized under the laws of the United
33 States or of the state of Kansas. On or after January 1, 2003, the amount
34 of cash, negotiable bonds of the United States or of the state of Kansas
35 or negotiable certificates of deposit of any bank organized under the laws
36 of the United States or of the state of Kansas deposited with the state
37 treasurer shall be in an amount of no less than \$30,000. When negotiable
38 bonds or negotiable certificates of deposit have been deposited with the
39 state treasurer to satisfy the bonding requirements of subsection (i), such
40 negotiable bonds or negotiable certificates of deposit shall remain on
41 deposit with the state treasurer for a period of not less than two years
42 after the date of delivery of the certificate of title to the motor vehicle
43 which was the subject of the last motor vehicle sales transaction in which

1 the licensee engaged prior to termination of the licensee's license. In the
2 event a licensee elects to deposit a surety bond in lieu of the negotiable
3 bonds or negotiable certificates of deposit previously deposited with the
4 state treasurer, the state treasurer shall not release the negotiable bonds
5 or negotiable certificates of deposits until at least two years after the date
6 of delivery of the certificate of title to the motor vehicle which was the
7 subject of the last motor vehicle sales transaction in which the licensee
8 engaged prior to the date of the deposit of the surety bond. The cash
9 deposit or market value of any such securities shall be equal to or greater
10 than the amount of the bond required for the bonded area and any in-
11 terest on those funds shall accrue to the benefit of the depositor.

12 (k) No license shall be issued by the director to any person to act as
13 a new or used dealer, wholesaler, broker, salvage vehicle dealer, auction
14 motor vehicle dealer, second stage manufacturer, first stage converter,
15 second stage converter or distributor unless the applicant for the vehicle
16 dealer's license maintains an established place of business which has been
17 inspected and approved by the division. First stage manufacturers, factory
18 branches, factory representatives, distributor branches, distributor rep-
19 resentatives and lending agencies are not required to maintain an estab-
20 lished place of business to be issued a license.

21 (l) Dealers required under the provisions of this act to maintain an
22 established place of business shall own or have leased and use sufficient
23 lot space to display vehicles at least equal in number to the number of
24 dealer license plates the dealer has had assigned.

25 (m) A sign with durable lettering at least 10 inches in height and easily
26 visible from the street identifying the established place of business shall
27 be displayed by every vehicle dealer. Notwithstanding the other provi-
28 sions of this subsection, the height of lettering of the required sign may
29 be less than 10 inches as necessary to comply with local zoning
30 regulations.

31 (n) If the established or supplemental place of business or lot is
32 zoned, approval must be secured from the proper zoning authority and
33 proof that the use complies with the applicable zoning law, ordinance or
34 resolution must be furnished to the director by the applicant for licensing.

35 (o) An established or supplemental place of business, otherwise
36 meeting the requirements of this act may be used by a dealer to conduct
37 more than one business, provided that suitable space and facilities exist
38 therein to properly conduct the business of a vehicle dealer.

39 (p) If a supplemental place of business is not operated on a contin-
40 uous, year-round basis, the dealer shall give the department 15 days' no-
41 tice as to the dates on which the dealer will be engaged in business at the
42 supplemental place of business.

43 (q) Any vehicle dealer selling, exchanging or transferring or causing

1 to be sold, exchanged or transferred new vehicles in this state must sat-
2 isfactorily demonstrate to the director that such vehicle dealer has a bona
3 fide franchise agreement with the first or second stage manufacturer or
4 distributor of the vehicle, to sell, exchange or transfer the same or to
5 cause to be sold, exchanged or transferred.

6 No person may engage in the business of buying, selling or exchanging
7 new motor vehicles, either directly or indirectly, unless such person holds
8 a license issued by the director for the make or makes of new motor
9 vehicles being bought, sold or exchanged, or unless a person engaged in
10 such activities is not required to be licensed or acts as an employee of a
11 licensee and such acts are only incidentally performed. For the purposes
12 of this section, engaged in the business of buying, selling or exchanging
13 new motor vehicles, either directly or indirectly, includes: (1) Displaying
14 new motor vehicles on a lot or showroom; (2) advertising new motor
15 vehicles, unless the person's business primarily includes the business of
16 broadcasting, printing, publishing or advertising for others in their own
17 names; or (3) regularly or actively soliciting or referring buyers for new
18 motor vehicles.

19 (r) No person may engage in the business of buying, selling or ex-
20 changing used motor vehicles, either directly or indirectly, unless such
21 person holds a license issued by the director for used motor vehicles being
22 bought, sold or exchanged, or unless a person engaged in such activities
23 is not required to be licensed or acts as an employee of a licensee and
24 such acts are only incidentally performed. For the purposes of this sec-
25 tion, engaged in the business of buying, selling or exchanging used motor
26 vehicles, either directly or indirectly, includes: (1) Displaying used motor
27 vehicles on a lot or showroom; (2) advertising used motor vehicles, unless
28 the person's business primarily includes the business of broadcasting,
29 printing, publishing or advertising for others in their own names; or (3)
30 regularly or actively soliciting buyers for used motor vehicles.

31 (s) The director of vehicles shall publish a suitable Kansas vehicle
32 salesperson's manual. Before a vehicle salesperson's license is issued, the
33 applicant for an original license or renewal thereof shall be required to
34 pass a written examination based upon information in the manual.

35 (t) No new license shall be issued nor any license renewed to any
36 person to act as a salvage vehicle dealer until the division has received
37 evidence of compliance with the junkyard and salvage control act as set
38 forth in K.S.A. 68-2201 et seq., and amendments thereto.

39 (u) On and after the effective date of this act, no person shall act as
40 a broker in the advertising, buying or selling of any new or used motor
41 vehicle. Nothing herein shall be construed to prohibit a person duly li-
42 censed under the requirements of this act from acting as a broker in
43 buying or selling a recreational vehicle as defined by subsection (f) of

1 K.S.A. 75-1212, and amendments thereto, when the recreational vehicle
2 subject to sale or purchase is a used recreational vehicle which has been
3 previously titled and independently owned by another person for a period
4 of 45 days or more, or is a new or used recreational vehicle repossessed
5 by a creditor holding security in such vehicle.

6 (v) Nothing herein shall be construed to prohibit a person not oth-
7 erwise required to be licensed under this act from selling such person's
8 own vehicle as an isolated and occasional sale.

9 Sec. 5. K.S.A. 8-135c and 8-2401 and 8-2436 and K.S.A. 2006 Supp.
10 8-2404 are hereby repealed.

11 Sec. 6. This act shall take effect and be in force from and after Jan-
12 uary 1, 2008, and its publication in the statute book.