

## HOUSE BILL No. 2526

By Representative Trimmer

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9 AN ACT relating to the vehicle dealers and manufacturers licensing act;  
10 concerning scrap metal recyclers; amending K.S.A. 2009 Supp. 8-2401,  
11 8-2404, 8-2408 and 8-2434 and repealing the existing sections.  
12

13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 2009 Supp. 8-2401 is hereby amended to read as  
15 follows: 8-2401. As used in this act, the following words and phrases shall  
16 have the meanings:

17 (a) "Vehicle dealer" means any person who: (1) For commission,  
18 money or other thing of value is engaged in the business of buying, selling  
19 or offering or attempting to negotiate a sale of an interest in vehicles; or  
20 (2) for commission, money or other thing of value is engaged in the busi-  
21 ness of buying, selling or offering or attempting to negotiate a sale of an  
22 interest in motor vehicles as an auction motor vehicle dealer as defined  
23 in (bb); but does not include: (A) Receivers, trustees, administrators, ex-  
24 ecutors, guardians, or other persons appointed by or acting under the  
25 judgment or order of any court, or any bank, trustee or lending company  
26 or institution which is subject to state or federal regulations as such, with  
27 regard to its disposition of repossessed vehicles; (B) public officers while  
28 performing their official duties; (C) employees of persons enumerated in  
29 provisions (A) and (B), when engaged in the specific performance of their  
30 duties as such employees; (D) auctioneers conducting auctions for per-  
31 sons enumerated in provisions (A), (B) or (C); or (E) auctioneers who,  
32 while engaged in conducting an auction of tangible personal property for  
33 others, offer for sale: (i) Vehicles which have been used primarily in a  
34 farm or business operation by the owner offering the vehicle for sale,  
35 including all vehicles which qualified for a farm vehicle tag at the time of  
36 sale except vehicles owned by a business engaged primarily in the business  
37 of leasing or renting passenger cars; (ii) vehicles which meet the statutory  
38 definition of antique vehicles; or (iii) vehicles for no more than four prin-  
39 cipals or households per auction. All sales of vehicles exempted pursuant  
40 to provision (E), except truck, truck tractors, pole trailers, trailers and  
41 semitrailers as defined by K.S.A. 8-126, and amendments thereto, shall  
42 be registered in Kansas prior to the sale.

43 (b) "New vehicle dealer" means any vehicle dealer who is a party to

1 an agreement, with a first or second stage manufacturer or distributor,  
2 which agreement authorizes the vehicle dealer to sell, exchange or trans-  
3 fer new motor vehicles, trucks, motorcycles, or trailers or parts and ac-  
4 cessories made or sold by such first or second stage manufacturer or  
5 distributor and obligates the vehicle dealer to fulfill the warranty com-  
6 mitments of such first or second stage manufacturer or distributor.

7 (c) “Used vehicle dealer” means any person actively engaged in the  
8 business of buying, selling or exchanging used vehicles.

9 (d) “Vehicle salesperson” means any person who is employed as a  
10 salesperson by a vehicle dealer to sell vehicles.

11 (e) “Board” means the vehicle dealer review board created by this  
12 act.

13 (f) “Director” means the director of vehicles, or a designee of the  
14 director.

15 (g) “Division” means the division of vehicles of the department of  
16 revenue.

17 (h) “Vehicle” means every device in, upon or by which any person or  
18 property is or may be transported or drawn upon a public highway, and  
19 is required to be registered under the provisions of article 1 of chapter 8  
20 of *the* Kansas Statutes Annotated, except that such term shall include  
21 micro utility trucks, as defined in K.S.A. 8-126, and amendments thereto,  
22 but shall not include motorized bicycles, and such term shall not include  
23 manufactured homes or mobile homes. As used herein, the terms “man-  
24 ufactured home” and “mobile home” shall have the meanings ascribed  
25 to them by K.S.A. 58-4202, and amendments thereto.

26 (i) “Motor vehicle” means any vehicle other than a motorized bicycle,  
27 which is self-propelled and is required to be registered under the provi-  
28 sions of article 1 of chapter 8 of *the* Kansas Statutes Annotated, except  
29 that such term shall include micro utility trucks, as defined in K.S.A. 8-  
30 126, and amendments thereto.

31 (j) “Licensor” means the director or division or both.

32 (k) “First stage manufacturer” means any person who manufactures,  
33 assembles and sells new vehicles to new vehicle dealers for resale in this  
34 state.

35 (l) “Second stage manufacturer” means any person who assembles,  
36 installs or permanently affixes body, cab or special unit equipment to a  
37 chassis supplied by a first stage manufacturer, distributor or other sup-  
38 plier and sells the resulting new vehicles to new vehicle dealers for resale  
39 in this state.

40 (m) “First stage converter” means any person who is engaged in the  
41 business of affixing to a chassis supplied by a first stage manufacturer,  
42 distributor or other supplier, specially constructed body units to result in  
43 motor vehicles used as, but not limited to, buses, wreckers, cement trucks

1 and trash compactors.

2 (n) "Second stage converter" means any person who is engaged in  
3 the business of adding to, subtracting from or modifying previously as-  
4 sembled or manufactured vehicles and sells the resulting converted ve-  
5 hicles at retail or wholesale.

6 (o) "Distributor" means any person who sells or distributes for resale  
7 new vehicles to new vehicle dealers in this state or who maintains dis-  
8 tributor representatives in this state.

9 (p) "Wholesaler" means any person who purchases vehicles for the  
10 purpose of resale to a vehicle dealer.

11 (q) "Factory branch" means any branch office maintained in this state  
12 by a first or second stage manufacturer for the sale of new vehicles to  
13 distributors, or for the sale of new vehicles to new vehicle dealers, or for  
14 directing or supervising, in whole or in part, its representatives in this  
15 state.

16 (r) "Distributor branch" means any branch office similar to subsec-  
17 tion (q) maintained by a distributor for the same purposes as a factory  
18 branch.

19 (s) "Factory representative" means a representative employed by a  
20 first or second stage manufacturer or factory branch for the purpose of  
21 making or promoting the sale of its new vehicles to new vehicle dealers,  
22 or for supervising or contacting its new vehicle dealers or prospective new  
23 vehicle dealers with respect to the promotion and sale of such vehicles  
24 and parts or accessories for the same.

25 (t) "Distributor representative" means any representative similar to  
26 subsection (s) employed by a distributor or distributor branch for the  
27 same purpose as a factory representative.

28 (u) "Person" means any natural person, partnership, firm, corpora-  
29 tion or association.

30 (v) "New motor vehicle" means any motor vehicle which has never  
31 been titled or registered and has not been substantially driven or  
32 operated.

33 (w) "Franchise agreement" means any contract or franchise or any  
34 other terminology used to describe the contractual relationship between  
35 first or second stage manufacturers, distributors and vehicle dealers, by  
36 which:

37 (1) A right is granted one party to engage in the business of offering,  
38 selling or otherwise distributing goods or services under a marketing plan  
39 or system prescribed in substantial part by the other party, and in which  
40 there is a community of interest in the marketing of goods or services at  
41 wholesale or retail, by lease, agreement or otherwise; and

42 (2) the operation of the grantee's business pursuant to such agree-  
43 ment is substantially associated with the grantor's trademark, service

- 1 mark, trade name, logotype, advertising or other commercial symbol des-  
2 ignating the grantor or an affiliate of the grantor.
- 3 (x) “Broker” means any person who, for a fee, commission, money,  
4 other thing of value, valuable consideration or benefit, either directly or  
5 indirectly, arranges or offers to arrange a transaction involving the sale of  
6 a vehicle, or is engaged in the business of: (1) Selling or buying vehicles  
7 for other persons as an agent, middleman or negotiator; or (2) bringing  
8 buyers and sellers of vehicles together, but such term shall not include  
9 any person registered as a salvage vehicle pool or any person engaged in  
10 a business in which the acts described in this subsection are only inci-  
11 dentally performed or which are performed or authorized within the  
12 requirements or scope of any other category of license, or not prohibited,  
13 in the manner authorized by the vehicle dealers’ and manufacturers’ li-  
14 censing act.
- 15 (y) “Salvage vehicle dealer” means any person engaged in the busi-  
16 ness of buying, selling or exchanging used vehicles and primarily engaged  
17 in the business of the distribution at wholesale or retail of used motor  
18 vehicle parts and includes establishments primarily engaged in disman-  
19 tling motor vehicles for the purpose of selling parts.
- 20 (z) “Lending agency” means any person, desiring to be licensed under  
21 this act and engaged in the business of financing or lending money  
22 to any person to be used in the purchase or financing of a vehicle.
- 23 (aa) “Established place of business” means a building or structure,  
24 other than a building or structure all or part of which is occupied or used  
25 as a residence, owned either in fee or leased and designated as an office  
26 or place to receive mail and keep records and conduct the routine of  
27 business. To qualify as an established place of business, there shall be  
28 located therein an operable telephone which shall be listed with the tel-  
29 ephone company under the name of the licensed business, except that a  
30 vehicle dealer who derives at least 50% of such person’s income from  
31 operating a farm as a resident thereof, the established place of business  
32 may be the farm residence of such vehicle dealer and the operable tele-  
33 phone may be located in such residence when such dealer engages only  
34 in vehicles and equipment not required to have vehicle registration to  
35 travel on a highway.
- 36 (bb) “Auction motor vehicle dealer” means any person who for com-  
37 mission, money or other thing of value is engaged in an auction of motor  
38 vehicles except that the sales of such motor vehicles shall involve only  
39 motor vehicles owned by licensed motor vehicle dealers and sold to li-  
40 censed motor vehicle dealers, except that any auction motor vehicle  
41 dealer, registered as such and lawfully operating prior to June 30, 1980,  
42 shall be deemed to be and have been properly licensed under this act  
43 from and after July 1, 1980. For the purposes of this subsection, an auc-

- 1 tion is a private sale of motor vehicles where any and all licensed motor  
2 vehicle dealers who choose to do so are permitted to attend and offer  
3 bids and the private sale of such motor vehicles is to the highest bidder.
- 4 (cc) “Licensee” means any person issued a valid license pursuant to  
5 this act.
- 6 (dd) “Dealer” means a vehicle dealer as defined by this act, unless  
7 the context otherwise requires.
- 8 (ee) “Insurance company” means any person desiring to be licensed  
9 under this act and engaged in the business of writing or servicing insur-  
10 ance related to vehicles.
- 11 (ff) “Supplemental place of business” means a business location other  
12 than that of the established place of business of the dealer which may be  
13 operated by the dealer on a continuous year-round basis and, for new  
14 vehicle dealers, is within the defined area of responsibility in their fran-  
15 chise agreement, and for all other dealers is within the same city or county  
16 where the established place of business of the dealer is operated.
- 17 (gg) “Salvage yard” means the place owned or leased and regularly  
18 occupied by a person, firm or corporation licensed under the provisions  
19 of this act for the principal purpose of engaging in the business of a salvage  
20 vehicle dealer. Salvage yard shall include the location where the:
- 21 (1) Products for sale are displayed and offered for sale;  
22 (2) books and records required for the conduct of the business are  
23 maintained;  
24 (3) records are kept in the normal daily business activity; and  
25 (4) records are made available for inspection.
- 26 (hh) “Salvage vehicle pool” means any person who as an agent for a  
27 third party is primarily engaged in the business of storing, displaying and  
28 offering for sale salvage vehicles.
- 29 (ii) “Major component part” means any vehicle part including the  
30 front clip, rear clip, doors, frame, chassis, engine, transmission, transaxle,  
31 cab, bed and box bearing the public vehicle identification number or  
32 engine number, if manufactured prior to 1981; or any vehicle part bearing  
33 a derivative of such number.
- 34 (jj) “Recreational motor vehicle” means a recreational vehicle as de-  
35 fined by subsection (f) of K.S.A. 75-1212, and amendments thereto.
- 36 (kk) “Vehicle crusher” means any person, other than a vehicle recy-  
37 cler ~~or a scrap metal recycler~~, who engages in the business of flattening,  
38 crushing or otherwise processing nonrepairable vehicles for recycling. Ve-  
39 hicle crushers include, but are not limited to, persons who use fixed or  
40 mobile equipment to flatten or crush nonrepairable vehicles for a vehicle  
41 recycler ~~or a scrap metal recycler~~.
- 42 (ll) “Vehicle recycler” means a person who engages in the business  
43 of acquiring, dismantling, removing parts from or destroying nonrepair-

1 able vehicles for the primary purpose of reselling the vehicle parts.

2 ~~(mm) “Scrap metal recycler” means a person who engages in the~~  
3 ~~business of shredding or otherwise processing nonrepairable vehicles or~~  
4 ~~other scrap metal into prepared grades and whose principal product is~~  
5 ~~scrap iron, scrap steel or nonferrous metallic scrap for sale for remelting~~  
6 ~~purposes.~~

7 ~~(nn)~~ “Nonrepairable vehicle” means any motor vehicle which: (1) Has  
8 been damaged, destroyed, wrecked, burned or submerged in water to the  
9 extent that such motor vehicle is incapable of safe operation for use on  
10 roads or highways and has no resale value except as a source of parts or  
11 scrap only; or (2) the owner irreversibly designates as a source of parts or  
12 scrap.

13 ~~(oo)~~ (nn) “Rebuilder” means a person who is engaged in the business  
14 of rebuilding salvage vehicles, as defined in K.S.A. 8-196, and amend-  
15 ments thereto, and selling such rebuilt salvage vehicles.

16 Sec. 2. K.S.A. 2009 Supp. 8-2404 is hereby amended to read as fol-  
17 lows: 8-2404. (a) No vehicle dealer shall engage in business in this state  
18 without obtaining a license as required by this act. Any vehicle dealer  
19 holding a valid license and acting as a vehicle salesperson shall not be  
20 required to secure a salesperson’s license.

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

27 (c) An application for a license shall be made to the director and shall  
28 contain the information provided for by this section, together with such  
29 other information as may be deemed reasonable and pertinent, and shall  
30 be accompanied by the required fee. The director may require in the  
31 application, or otherwise, information relating to the applicant’s solvency,  
32 financial standing, or other pertinent matter commensurate with the safe-  
33 guarding of the public interest in the locality in which the applicant pro-  
34 poses to engage in business, all of which may be considered by the di-  
35 rector in determining the fitness of the applicant to engage in business  
36 as set forth in this section. The director may require the applicant for  
37 licensing to appear at such time and place as may be designated by the  
38 director for examination to enable the director to determine the accuracy  
39 of the facts contained in the written application, either for initial licensure  
40 or renewal thereof. Every application under this section shall be verified  
41 by the applicant.

42 (d) All licenses shall be granted or refused within 30 days after ap-  
43 plication is received by the director. All licenses, except licenses issued

1 to salespersons, shall expire, unless previously suspended or revoked, on  
 2 December 31 of the calendar year for which they are granted, except that  
 3 where a complaint respecting the cancellation, termination or nonrenewal  
 4 of a sales agreement is in the process of being heard, no replacement  
 5 application shall be considered until a final order is issued by the director.  
 6 Applications for renewals, except for renewals of licenses issued to sales-  
 7 persons, received by the director after February 15 shall be considered  
 8 as new applications. All salespersons' licenses issued on or after January  
 9 1, 1987, shall expire on June 30, 1988, and thereafter shall expire, unless  
 10 previously suspended or revoked, on June 30 of the calendar year for  
 11 which they are granted. Applications for renewals of salespersons' licenses  
 12 received by the director after July 15 shall be considered as new appli-  
 13 cations. All licenses for supplemental places of business existing or issued  
 14 on or after January 1, 1994, shall expire on December 31, 1994, unless  
 15 previously expired, suspended or revoked, and shall thereafter expire on  
 16 December 31 of the calendar year for which they are granted, unless  
 17 previously suspended or revoked.

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

- 20 (1) For new vehicle dealers, \$75;
- 21 (2) for distributors, \$75;
- 22 (3) for wholesalers, \$75;
- 23 (4) for distributor branches, \$75;
- 24 (5) for used vehicle dealers, \$75;
- 25 (6) for first and second stage manufacturers, \$225 plus \$75 for each  
 26 factory branch in this state;
- 27 (7) for factory representatives, \$50;
- 28 (8) for distributor representatives, \$50;
- 29 (9) for brokers, \$75;
- 30 (10) for lending agencies, \$50;
- 31 (11) for first and second stage converters, \$50;
- 32 (12) for salvage vehicle dealers, \$75;
- 33 (13) for auction motor vehicle dealers, \$75;
- 34 (14) for vehicle salesperson, \$25;
- 35 (15) for insurance companies, \$75;
- 36 (16) for vehicle crusher, \$75;
- 37 (17) for vehicle recycler, \$75;
- 38 (18) ~~for scrap metal recycler, \$75;~~
- 39 ~~(19)~~ for rebuilders, \$75; and
- 40 ~~(20)~~ (19) for salvage vehicle pool, \$75.

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

43 (f) Dealers may establish approved supplemental places of business

1 within the same county of their licensure or, with respect to new vehicle  
2 dealers, within their area of responsibility as defined in their franchise  
3 agreement. Those doing so shall be required to pay a supplemental license  
4 fee of \$35. In addition to any other requirements, new vehicle dealers  
5 seeking to establish supplemental places of business shall also comply with  
6 the provisions of K.S.A. 8-2430 through 8-2432, and amendments thereto.  
7 A new vehicle dealer establishing a supplemental place of business in a  
8 county other than such dealer's county of licensure but within such  
9 dealer's area of responsibility as defined in such dealer's franchise agree-  
10 ment shall be licensed only to do business as a new motor vehicle dealer  
11 in new motor vehicles at such supplemental place of business. Original  
12 inspections by the division of a proposed established place of business  
13 shall be made at no charge except that a \$30 fee shall be charged by the  
14 division for each additional inspection the division must make of such  
15 premises in order to approve the same.

16 (g) The license of all persons licensed under the provisions of this act  
17 shall state the address of the established place of business, office, branch  
18 or supplemental place of business and must be conspicuously displayed  
19 therein. The director shall endorse a change of address on a license with-  
20 out charge if: (1) The change of address of an established place of busi-  
21 ness, office, branch or supplemental place of business is within the same  
22 county; or (2) the change of address of a supplemental place of business,  
23 with respect to a new vehicle dealer, is within such dealer's area of re-  
24 sponsibility as defined in their franchise agreement. A change of address  
25 of the established place of business, office or branch to a different county  
26 shall require a new license and payment of the required fees but such  
27 new license and fees shall not be required for a change of address of a  
28 supplemental place of business, with respect to a new vehicle dealer, to  
29 a different county but within the dealer's area of responsibility as defined  
30 in their franchise agreement.

31 (h) Every salesperson, factory representative or distributor represen-  
32 tative shall carry on their person a certification that the person holds a  
33 valid state license. The certification shall name the person's employer and  
34 shall be displayed upon request. An original copy of the state license for  
35 a vehicle salesperson shall be mailed or otherwise delivered by the divi-  
36 sion to the employer of the salesperson for public display in the em-  
37 ployer's established place of business. When a salesperson ceases to be  
38 employed as such, the former employer shall mail or otherwise return  
39 the original copy of the employee's state license to the division. A sales-  
40 person, factory representative or distributor representative who termi-  
41 nates employment with one employer may file an application with the  
42 director to transfer the person's state license in the name of another  
43 employer. The application shall be accompanied by a \$12 transfer fee. A

1 salesperson, factory representative or distributor representative who ter-  
2 minates employment, and does not transfer the state license, shall mail  
3 or otherwise return the certification that the person holds a valid state  
4 license to the division.

5 (i) If the director has reasonable cause to doubt the financial respon-  
6 sibility or the compliance by the applicant or licensee with the provisions  
7 of this act, the director may require the applicant or licensee to furnish  
8 and maintain a bond in such form, amount and with such sureties as the  
9 director approves, but such amount shall be not less than \$5,000 nor more  
10 than \$20,000, conditioned upon the applicant or licensee complying with  
11 the provisions of the statutes applicable to the licensee and as indemnity  
12 for any loss sustained by a retail or wholesale buyer or seller of a vehicle  
13 by reason of any act by the licensee constituting grounds for suspension  
14 or revocation of the license. Every applicant or licensee who is or applies  
15 to be a used vehicle dealer or a new vehicle dealer shall furnish and  
16 maintain a bond in such form, amount and with such sureties as the  
17 director approves, conditioned upon the applicant or licensee complying  
18 with the provisions of the statutes applicable to the licensee and as in-  
19 demnity for any loss sustained by a retail or wholesale buyer or seller of  
20 a vehicle by reason of any act by the licensee in violation of any act which  
21 constitutes grounds for suspension or revocation of the license. The  
22 amount of such bond shall be as follows: (1) For any new applicant  
23 \$30,000; or (2) for any current licensee, \$15,000, until the renewal date  
24 of the existing bond, then \$30,000, except that on and after January 1,  
25 2003, the amount of such bond shall be \$30,000. To comply with this  
26 subsection, every bond shall be a corporate surety bond issued by a com-  
27 pany authorized to do business in the state of Kansas and shall be executed  
28 in the name of the state of Kansas for the benefit of any aggrieved retail  
29 or wholesale buyer or seller of a vehicle. The aggregate liability of the  
30 surety for all breaches of the conditions of the bond in no event shall  
31 exceed the amount of such bond. The surety on the bond shall have the  
32 right to cancel the bond by giving 30 days' notice to the director, and  
33 thereafter the surety shall be relieved of liability for any breach of con-  
34 dition occurring after the effective date of cancellation. Bonding require-  
35 ments shall not apply to first or second stage manufacturers, factory  
36 branches, factory representatives or salespersons. Upon determination by  
37 the director that a judgment from a Kansas court of competent jurisdic-  
38 tion is a final judgment and that the judgment resulted from an act in  
39 violation of this act or would constitute grounds for suspension, revoca-  
40 tion, refusal to renew a license or administrative fine pursuant to K.S.A.  
41 8-2411, and amendments thereto, the proceeds of the bond on deposit  
42 or in lieu of bond provided by subsection (j), shall be paid. The deter-  
43 mination by the director under this subsection is hereby specifically ex-

1 emptied from the Kansas administrative procedure act (K.S.A. 77-501  
2 through 77-549, and amendments thereto,) and the act for judicial review  
3 and civil enforcement of agency actions (K.S.A. 77-601 through 77-627,  
4 and amendments thereto). Any proceeding to enforce payment against a  
5 surety following a determination by the director shall be prosecuted by  
6 the judgment creditor named in the final judgment sought to be enforced.  
7 Upon a finding by the court in such enforcement proceeding that a surety  
8 has wrongfully failed or refused to pay, the court shall award reasonable  
9 attorney fees to the judgment creditor.

10 (j) An applicant or licensee may elect to satisfy the bonding require-  
11 ments of subsection (i) by depositing with the state treasurer cash, ne-  
12 gotiable bonds of the United States or of the state of Kansas or negotiable  
13 certificates of deposit of any bank organized under the laws of the United  
14 States or of the state of Kansas. On or after January 1, 2003, the amount  
15 of cash, negotiable bonds of the United States or of the state of Kansas  
16 or negotiable certificates of deposit of any bank organized under the laws  
17 of the United States or of the state of Kansas deposited with the state  
18 treasurer shall be in an amount of no less than \$30,000. When negotiable  
19 bonds or negotiable certificates of deposit have been deposited with the  
20 state treasurer to satisfy the bonding requirements of subsection (i), such  
21 negotiable bonds or negotiable certificates of deposit shall remain on  
22 deposit with the state treasurer for a period of not less than two years  
23 after the date of delivery of the certificate of title to the motor vehicle  
24 which was the subject of the last motor vehicle sales transaction in which  
25 the licensee engaged prior to termination of the licensee's license. In the  
26 event a licensee elects to deposit a surety bond in lieu of the negotiable  
27 bonds or negotiable certificates of deposit previously deposited with the  
28 state treasurer, the state treasurer shall not release the negotiable bonds  
29 or negotiable certificates of deposits until at least two years after the date  
30 of delivery of the certificate of title to the motor vehicle which was the  
31 subject of the last motor vehicle sales transaction in which the licensee  
32 engaged prior to the date of the deposit of the surety bond. The cash  
33 deposit or market value of any such securities shall be equal to or greater  
34 than the amount of the bond required for the bonded area and any in-  
35 terest on those funds shall accrue to the benefit of the depositor.

36 (k) No license shall be issued by the director to any person to act as  
37 a new or used dealer, wholesaler, broker, salvage vehicle dealer, auction  
38 motor vehicle dealer, vehicle crusher, vehicle recycler, rebuilder, ~~scrap~~  
39 ~~metal recycler~~, salvage vehicle pool, second stage manufacturer, first stage  
40 converter, second stage converter or distributor unless the applicant for  
41 the vehicle dealer's license maintains an established place of business  
42 which has been inspected and approved by the division. First stage man-  
43 ufacturers, factory branches, factory representatives, distributor

1 branches, distributor representatives and lending agencies are not re-  
2 quired to maintain an established place of business to be issued a license.

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

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

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

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

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

25 (q) Any vehicle dealer selling, exchanging or transferring or causing  
26 to be sold, exchanged or transferred new vehicles in this state must sat-  
27 isfactorily demonstrate to the director that such vehicle dealer has a bona  
28 fide franchise agreement with the first or second stage manufacturer or  
29 distributor of the vehicle, to sell, exchange or transfer the same or to  
30 cause to be sold, exchanged or transferred.

31 No person may engage in the business of buying, selling or exchanging  
32 new motor vehicles, either directly or indirectly, unless such person holds  
33 a license issued by the director for the make or makes of new motor  
34 vehicles being bought, sold or exchanged, or unless a person engaged in  
35 such activities is not required to be licensed or acts as an employee of a  
36 licensee and such acts are only incidentally performed. For the purposes  
37 of this section, engaged in the business of buying, selling or exchanging  
38 new motor vehicles, either directly or indirectly, includes: (1) Displaying  
39 new motor vehicles on a lot or showroom; (2) advertising new motor  
40 vehicles, unless the person's business primarily includes the business of  
41 broadcasting, printing, publishing or advertising for others in their own  
42 names; or (3) regularly or actively soliciting or referring buyers for new  
43 motor vehicles.

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

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

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

21 (u) On and after the effective date of this act, no person shall act as  
22 a broker in the advertising, buying or selling of any new or used motor  
23 vehicle. Nothing herein shall be construed to prohibit a person duly li-  
24 censed under the requirements of this act from acting as a broker in  
25 buying or selling a recreational vehicle as defined by subsection (f) of  
26 K.S.A. 75-1212, and amendments thereto, when the recreational vehicle  
27 subject to sale or purchase is a used recreational vehicle which has been  
28 previously titled and independently owned by another person for a period  
29 of 45 days or more, or is a new or used recreational vehicle repossessed  
30 by a creditor holding security in such vehicle.

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

34 Sec. 3. K.S.A. 2009 Supp. 8-2408 is hereby amended to read as fol-  
35 lows: 8-2408. Except as hereinafter provided, every person licensed as a  
36 dealer under provisions of this act shall:

37 (a) On or before the 20th day of each month, file a monthly report,  
38 on a form prescribed and furnished by the division of vehicles, listing all  
39 sales or transfers, except sales or transfers by a first or second stage man-  
40 ufacturer to a vehicle dealer of new or used vehicles, including the name  
41 and address of the purchaser or transferee, date of sale, the serial or  
42 identification number of the vehicle, and such other information as the  
43 division may require.

- 1 (b) Salvage vehicle dealers, vehicle crusher, vehicle recycler, re-  
2 builder, ~~scrap metal recycler~~ and salvage vehicle pool shall, in addition to  
3 their monthly sales report for used vehicles, if applicable, on or before  
4 the 20th day of each month file a monthly report on a form prescribed  
5 and furnished by the division, listing all vehicles for which the major  
6 component part containing the vehicle identification number or engine  
7 number if manufactured prior to 1981, has been disposed of or sold. The  
8 certificate of title or transfer certificate for all vehicles listed must accom-  
9 pany the monthly report.
- 10 (c) Make available during regular business hours to any employee of  
11 the division or any member of law enforcement for the purpose of in-  
12 vestigation or inspection, all records concerning vehicles purchased, sold  
13 or exchanged during the preceding 12 months, including certificates of  
14 title on all vehicles owned by the dealership, except those titles surren-  
15 dered pursuant to subsection (b).
- 16 (d) Whenever a dealer sells or otherwise disposes of such dealer's  
17 business, or for any reason suspends or goes out of business as a dealer,  
18 such dealer shall notify the division and return the dealer's license and  
19 dealer plates, and the division upon receipt of such notice and plates shall  
20 cancel the dealer's license, except that such dealer may, upon payment  
21 of 50% of the annual fee to the division, have the license and dealer plates  
22 assigned to the purchaser of the business.
- 23 (e) In addition to the requirements of subsection (a), any dealer pay-  
24 ing a commission or fee to a broker shall report to the division, on the  
25 monthly sales report, the name of the broker and the broker's license  
26 number.
- 27 (f) Dealers, licensed as brokers must in addition to the requirements  
28 of subsection (a) include on the monthly sales reports, the name of the  
29 seller, the transferor or dealer that owns the vehicle and whether the  
30 seller or the purchaser paid the broker's fee or commission.
- 31 (g) Lending agencies licensed under this act, which sell two or less  
32 repossessed vehicles a month, shall not be required to file the monthly  
33 reports under subsection (a), except that such lending agencies shall re-  
34 port annually, on a form prescribed and furnished by the division, the  
35 total number of sales or transfers of such vehicles.
- 36 Sec. 4. K.S.A. 2009 Supp. 8-2434 is hereby amended to read as fol-  
37 lows: 8-2434. It shall be unlawful and constitute a misdemeanor, punish-  
38 able by a fine not to exceed \$2,500, for any person to do business as a  
39 motor vehicle dealer, salvage vehicle dealer, motor vehicle manufacturer,  
40 motor vehicle converter, auction motor vehicle dealer, vehicle crusher,  
41 vehicle recycler, rebuilder, ~~scrap metal recycler~~, salvage vehicle pool or  
42 salesperson without a license issued by the director. The isolated or oc-  
43 casional sale of a vehicle by a person who owned such vehicle shall not

1 constitute the doing of business as a vehicle dealer.

2 Sec. 5. K.S.A. 2009 Supp. 8-2401, 8-2404, 8-2408 and 8-2434 are  
3 hereby repealed.

4 Sec. 6. This act shall take effect and be in force from and after its  
5 publication in the Kansas register.