

1 SB498  
2 118830-1  
3 By Senator Means  
4 RFD: Industrial Development and Recruitment  
5 First Read: 04-MAR-10

2  
3  
4  
5  
6  
7  
8 SYNOPSIS: This bill would clarify the language as to  
9 who is required to be licensed as a used motor  
10 vehicle dealer.

11  
12 A BILL  
13 TO BE ENTITLED  
14 AN ACT

15  
16 To amend Section 40-12-390, Code of Alabama 1975,  
17 relating to the definitions for licensing for certain  
18 professions, to clarify the language as to who is required to  
19 be licensed as a used motor vehicle dealer.

20 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

21 Section 1. Section 40-12-390, Code of Alabama 1975,  
22 is amended to read as follows:

23 "§40-12-390.

24 "The following words and phrases, when used in this  
25 article, shall have the following meanings:

26 "(1) COMMISSIONER. The state Commissioner of  
27 Revenue.

1           "(2) DISTRIBUTOR. Any person, firm, or corporation  
2 engaged in the business of selling or distributing new motor  
3 vehicles to new motor vehicle dealers.

4           "(3) MANUFACTURER. Any person, firm, or corporation  
5 engaged in the business of manufacturing or assembling new and  
6 unused motor vehicles.

7           "(4) MOTOR VEHICLE. Any motor vehicle as defined in  
8 Section 40-12-240, but the term shall not include trailers,  
9 semitrailers or house trailers as defined in Section  
10 40-12-240.

11           "(5) MOTOR VEHICLE RECONDITIONER. Any person, firm,  
12 or corporation engaged in the business of refurbishing,  
13 repairing, or replacing damaged parts of motor vehicles for  
14 the purpose of preparing the vehicle for resale under the same  
15 identification and identity as the vehicle bore before the  
16 refurbishing.

17           "(6) MOTOR VEHICLE REBUILDER. Any person, firm, or  
18 corporation engaged in the business of making or causing to be  
19 made extensive repairs, replacements, or combination of  
20 different motor vehicles to the extent of extinguishing the  
21 identity of the original vehicle to the extent that the  
22 finished motor vehicle shall be assigned a new identification  
23 to be issued by the Department of Revenue under the provisions  
24 of Chapter 8 of Title 32.

25           "(7) MOTOR VEHICLE WHOLESALER. Any person, firm, or  
26 corporation engaged in the business of buying, selling, or

1 exchanging motor vehicles at wholesale to motor vehicle  
2 dealers, as defined in this article, and not to the public.

3 "(8) NEW MOTOR VEHICLE. A motor vehicle, other than  
4 a used motor vehicle, the legal title of which has never been  
5 transferred by a manufacturer, distributor, or new motor  
6 vehicle dealer to an ultimate purchaser.

7 "(9) NEW MOTOR VEHICLE DEALER. Any person, firm, or  
8 corporation which holds a bona fide contract or franchise in  
9 this state in effect with a manufacturer or distributor of new  
10 motor vehicles and is engaged in the business of selling,  
11 advertising, or negotiating the sale of new motor vehicles or  
12 new and used motor vehicles, and the duly licensed new motor  
13 vehicle dealers shall be the sole and only persons, firms, or  
14 corporations entitled, other than in connection with the  
15 rental or leasing of new motor vehicles by persons engaged in  
16 the business of motor vehicle rental and leasing, to sell and  
17 publicly or otherwise solicit and advertise for sale new motor  
18 vehicles.

19 "(10) PERMANENT LOCATION. A building or structure  
20 from which sales of motor vehicles are conducted. A house used  
21 as a residence by the business owner, a partner, or a  
22 corporate officer from which sales of motor vehicles are  
23 conducted may also be a permanent location. The building or  
24 structure must be owned, rented, or leased and must be used as  
25 an office and a place to receive mail, keep records, and  
26 conduct routine business, to include an operable telephone

1 listed with the telephone company under the name of the  
2 licensed business.

3 "(11) USED MOTOR VEHICLE. A motor vehicle, the legal  
4 title of which has been transferred by a manufacturer,  
5 distributor, or new motor vehicle dealer to an ultimate  
6 purchaser.

7 "(12) USED MOTOR VEHICLE DEALER. Any person, firm,  
8 or corporation engaged in the business of buying, selling,  
9 exchanging, advertising, or negotiating the sale of five or  
10 more motor vehicles at retail during a calendar year, whether  
11 or not the motor vehicles are owned by such person, firm, or  
12 corporation, or in offering or displaying motor vehicles for  
13 sale at retail to the public. The term "selling" or "sale"  
14 shall include lease-purchase transactions. The term "used  
15 motor vehicle dealer" does not include banks, licensees of the  
16 State Banking Department, and finance companies which acquire  
17 motor vehicles as an incident to their regular business and  
18 does not include motor vehicle rental and leasing companies.

19 "(13) ULTIMATE PURCHASER. With respect to a new  
20 motor vehicle, the first person, firm, or corporation, other  
21 than a new motor vehicle dealer purchasing in his or her  
22 capacity as a new motor vehicle dealer, who in good faith  
23 purchases the new motor vehicle for purposes other than  
24 resale. Ultimate purchaser shall not include a person, firm,  
25 or corporation who purchases a vehicle for purposes of  
26 altering or remanufacturing the motor vehicle for future  
27 resale."

1                   Section 2. This act shall become effective  
2 immediately following its passage and approval by the  
3 Governor, or its otherwise becoming law.