

1 SB286  
2 198537-3  
3 By Senator Livingston  
4 RFD: Fiscal Responsibility and Economic Development  
5 First Read: 16-APR-19

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8 SYNOPSIS: Under existing law, a person engaging in the  
9 business of acting as a new motor vehicle dealer,  
10 used motor vehicle dealer, motor vehicle rebuilder,  
11 or motor vehicle wholesaler is required to obtain a  
12 regulatory license from the Department of Revenue.

13 This bill would provide for the issuance of  
14 a master regulatory dealer license in lieu of the  
15 issuance of separate licenses for the sale,  
16 wholesale, or rebuilding of motor vehicles and  
17 provide for an adjustment to the license fee.

18 Under existing law, a person who willfully  
19 acquires motor vehicle dealer license plates in  
20 violation of the law is subject to a civil penalty.

21 This bill would increase that penalty.

22 This bill would provide for the issuance of  
23 a wholesale motor vehicle auction license and would  
24 prohibit any person from engaging in the business  
25 of a motor vehicle wholesale auction without the  
26 license.

1           This bill would provide a criminal penalty  
2 for a violation of the provisions relating to the  
3 wholesale motor vehicle auction license.

4           Amendment 621 of the Constitution of Alabama  
5 of 1901, now appearing as Section 111.05 of the  
6 Official Recompilation of the Constitution of  
7 Alabama of 1901, as amended, prohibits a general  
8 law whose purpose or effect would be to require a  
9 new or increased expenditure of local funds from  
10 becoming effective with regard to a local  
11 governmental entity without enactment by a 2/3 vote  
12 unless: it comes within one of a number of  
13 specified exceptions; it is approved by the  
14 affected entity; or the Legislature appropriates  
15 funds, or provides a local source of revenue, to  
16 the entity for the purpose.

17           The purpose or effect of this bill would be  
18 to require a new or increased expenditure of local  
19 funds within the meaning of the amendment. However,  
20 the bill does not require approval of a local  
21 governmental entity or enactment by a 2/3 vote to  
22 become effective because it comes within one of the  
23 specified exceptions contained in the amendment.

24  
25                           A BILL  
26                           TO BE ENTITLED  
27                           AN ACT

1  
2           Relating to motor vehicle dealer licensing; to amend  
3 Sections 40-12-264, 40-12-390, 40-12-391, 40-12-392,  
4 40-12-393, 40-12-395, and 40-12-398, to create a master  
5 regulatory dealer license and provide for an adjustment to the  
6 license fee; to increase the civil penalty authorized for a  
7 violation; to add Article 10, commencing with Section  
8 40-12-445, to Chapter 12 of Title 40, Code of Alabama 1975, to  
9 create a wholesale motor vehicle auction license; to provide a  
10 criminal penalty for a violation; and in connection therewith  
11 would have as its purpose or effect the requirement of a new  
12 or increased expenditure of local funds within the meaning of  
13 Amendment 621 of the Constitution of Alabama of 1901, now  
14 appearing as Section 111.05 of the Official Recompilation of  
15 the Constitution of Alabama of 1901, as amended.

16 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

17           Section 1. Sections 40-12-264, 40-12-390, 40-12-391,  
18 40-12-392, 40-12-393, 40-12-395, and 40-12-398, Code of  
19 Alabama 1975, are amended to read as follows:

20           "§40-12-264.

21           "(a) Any person, including a motor vehicle dealer,  
22 acquiring a new or used motor vehicle may be granted a grace  
23 period of 20 calendar days from date of acquisition to procure  
24 a license tag or plate.

25           "(b) ~~Notwithstanding~~ Section 32-6-65, a new or  
26 used motor vehicle dealer who has a current regulatory license  
27 required under this article and a dealer license as required

1 by Section 40-12-51 or Section 40-12-169 ~~and Section 40-12-391~~  
2 may purchase dealer license plates from the ~~county license~~  
3 ~~plate issuing official of the county in which the business is~~  
4 ~~located~~ department upon presentation of the current licenses  
5 ~~required under Section 40-12-391 and either Section 40-12-51~~  
6 ~~or Section 40-12-169 from this state~~ and payment of the fee  
7 for a private passenger automobile as provided in subdivision  
8 (1) of Section 40-12-242 and subsection (a) of Section  
9 40-12-273 per dealer plate. An additional ~~\$1.75~~ two dollar  
10 (\$2) issuance fee shall also be collected, ~~which shall be~~  
11 ~~deposited into the county general fund to be used exclusively~~  
12 ~~for the operation of the issuing official's office~~ by the  
13 department. A new or used motor vehicle dealer that has a  
14 current regulatory license required under this article and a  
15 dealer license as required by ~~Sections~~ Section 40-12-62 ~~and~~  
16 ~~40-12-391~~ may purchase motorcycle dealers' license plates from  
17 the ~~county in which the business is located~~ department upon  
18 presentation of current licenses ~~as provided in both Sections~~  
19 ~~40-12-62 and 40-12-391 from this state~~ and payment of the  
20 motorcycle registration fee as provided by subdivision (2) of  
21 Section 40-12-242 and subsection (c) of Section 40-12-273 per  
22 license plate. ~~The additional \$1.75~~ An additional two dollar  
23 (\$2) issuance fee shall also be collected, ~~which shall be~~  
24 ~~deposited into the county general fund to be used exclusively~~  
25 ~~for the operation of the issuing official's office~~ by the  
26 department. Dealer license plates and motorcycle dealer  
27 license plates may only be used on motor vehicles owned by the

1 dealership and being held in the inventory of the dealer. The  
2 number of dealer license plates is limited as follows:

3 "(1) A licensed new motor vehicle dealer may  
4 purchase a maximum combined total of ~~25~~ 35 dealer and  
5 motorcycle dealer license plates unless the dealer qualifies  
6 for additional dealer license plates as provided for in  
7 subdivision (3).

8 "(2) A licensed used motor vehicle dealer may  
9 purchase a maximum combined total of ~~10~~ five dealer and  
10 motorcycle dealer license plates unless the dealer qualifies  
11 for additional dealer license plates as provided for in  
12 subdivision (3).

13 "(3) Any licensed new or used motor vehicle dealer  
14 who completes applications for certificates of title involving  
15 title transfers for ~~1,500~~ 300 or more motor vehicles in this  
16 state during the previous dealer regulatory license year may  
17 purchase a combined total of not more than 25 additional  
18 dealer and motorcycle dealer license plates.

19 "(c) Dealer license plates may be used by  
20 prospective purchasers, owners, partners, corporate officers,  
21 and employees of the dealership and only on vehicles owned by  
22 the dealership and being held in the inventory of the dealer.  
23 Dealer license plates shall not be used on vehicles that are  
24 utilized by the dealership as rental or lease vehicles, tow  
25 trucks, service trucks or vans, ~~and other service vehicles~~ or  
26 for other commercial purposes. A prospective purchaser shall  
27 be limited to 72 hours of use of dealer license plates. All

1 vehicles on temporary loan from a motor vehicle dealer to a  
2 customer whose vehicle is being serviced or repaired by the  
3 dealer or to a high school for the purpose of student driver  
4 education shall be considered dealer demonstrator vehicles and  
5 dealer license plates may be used on these vehicles provided a  
6 fee is not charged by the dealer for the use.

7 "(d) Licensed new and used motor vehicle dealers  
8 selling trucks or truck tractors with more than two axles on  
9 the power unit or a gross weight exceeding 26,000 pounds shall  
10 allow prospective purchasers to use dealer license plates for  
11 one payload trip only, and that use shall not exceed 72 hours.  
12 The dealer shall provide the prospective purchaser a permit  
13 fully describing the vehicle by make, model, year, and vehicle  
14 identification number. The permit shall contain the complete  
15 name and address of the dealership and of the prospective  
16 customer and shall clearly indicate the date and time the  
17 permit was issued. The permit and dealer license plate shall  
18 be issued only for demonstration purposes, and shall not be  
19 issued by the dealer when a vehicle is loaned or rented to an  
20 operator for any other purpose.

21 "(e) A licensed new or used motor vehicle dealer, ~~or~~  
22 ~~wholesaler may purchase a maximum of 10~~ upon proper  
23 application, may be issued a temporary seven-day dealer  
24 transit license plates plate to be used on motor vehicles  
25 being offered for sale to licensed motor vehicle dealers. The  
26 temporary dealer transit license plate shall be issued in a  
27 manner as prescribed by the department. ~~Dealer~~ Temporary

1 seven-day dealer transit license plates may be used by the new  
2 or used motor vehicle dealer ~~or a wholesaler~~ to transport  
3 vehicles within the inventory of the dealer ~~or wholesaler~~.

4 ~~Dealer~~ The temporary seven-day dealer transit license plates  
5 shall not be used on service vehicles, including which include  
6 tow trucks, and rental, or and lease vehicles, or used for  
7 other commercial purposes. The fees for the seven-day dealer  
8 transit license plates shall be the same as the fees provided  
9 in subsection (b) for dealer license plates five dollars (\$5).

10 "(f) A motor vehicle wholesale auction, licensed  
11 under Section 40-12-446, upon proper application, may be  
12 issued a seven-day auction transit license plate to be used to  
13 transport vehicles to and from the auction. The seven-day  
14 auction transit license plate shall be issued in a manner as  
15 prescribed by the department. The seven-day auction transit  
16 license plate may not be used on service vehicles, which  
17 include tow trucks and rental and lease vehicles, or used for  
18 other commercial purposes. The fee for a seven-day auction  
19 transit license plate shall be five dollars (\$5).

20 ~~"(f)~~ (g) A licensed motor vehicle ~~rebuilder~~ dealer  
21 may purchase a ~~maximum of 10~~ temporary seven-day dealer  
22 transit license plates to be used in accordance with  
23 subsection (a) of Section 32-8-87.

24 ~~"(g)~~ (h) Any Notwithstanding Section 32-6-65, any  
25 manufacturer of private passenger automobiles, motorcycles,  
26 trucks, truck tractors, or trailers who has manufacturing  
27 facilities located in this state and has a current

1 manufacturer's license as required by Section 40-12-87, may  
2 procure manufacturer license plates from the ~~county license~~  
3 ~~plate issuing official of the county in which the business is~~  
4 ~~located~~ department upon payment of the private passenger  
5 automobile or motorcycle fees per plate, as provided in  
6 subdivision (1) or (2) of Section 40-12-242 and subsection (a)  
7 or (c) of Section 40-12-273. ~~The additional one dollar~~  
8 ~~seventy-five cents (\$1.75)~~ An additional two dollar (\$2)  
9 ~~issuance fee shall also be collected, which shall be deposited~~  
10 ~~into the county general fund to be used exclusively for the~~  
11 ~~operation of the issuing official's office~~ by the department.  
12 The word "manufacturer" shall appear on the license plates.  
13 The license plates may be used for transporting and testing  
14 new motor vehicles owned by the manufacturer.

15 ~~"(h)~~ (i) The proceeds of the fees levied in this  
16 section shall not be subject to proration. The registration  
17 fees collected pursuant to this section for dealer license  
18 plates and manufacturer license plates shall be distributed by  
19 ~~the county license plate issuing officials~~ department in the  
20 same manner as fees for private passenger automobiles and  
21 motorcycles pursuant to Sections 40-12-269, 40-12-270, and  
22 40-12-274. The five dollar (\$5) fee for the issuance of the  
23 seven-day dealer transit plates and the seven-day auction  
24 transit plates and the additional two dollar (\$2) issuance fee  
25 for dealer license plates and manufacturer license plates  
26 shall be retained by the department to offset the cost of  
27 administering this article. The five dollar (\$5) fee and the

1 two dollar (\$2) issuance fee, in addition to all other  
2 appropriations, shall be continuously appropriated to the  
3 department. No fees provided in this section may be refunded.

4 ~~"(i)~~ (j) No motor vehicle ad valorem taxes,  
5 registration fees imposed by local law, or issuance fees  
6 imposed by local law shall be collected by the ~~county official~~  
7 ~~who issues~~ department when issuing license plates pursuant to  
8 this section. In addition, motor vehicle delinquency penalties  
9 and interest fees shall not be applicable when issuing license  
10 plates pursuant to this section.

11 "(k) No motor vehicle ad valorem taxes or sales tax  
12 shall be collected by the local issuing official when a  
13 standard plate is issued for a motor vehicle held in inventory  
14 by a licensed new or used motor vehicle dealer.

15 ~~"(j)~~ (l) Any person to whom license plates are  
16 issued under this section, upon forfeiture or revocation of  
17 his or her license under Section 40-12-390, et seq., or upon  
18 discontinuing business, shall surrender to the ~~issuing~~  
19 ~~official~~ department all license plates issued within 10  
20 calendar days from the date of forfeiture or revocation of  
21 license or discontinuing business.

22 ~~"(k)~~ (m) Motor vehicle dealer, motorcycle dealer,  
23 manufacturer, auction transit, or dealer transit license  
24 plates may not be used in lieu of regular issued license  
25 plates as a means of avoiding the registration and ad valorem  
26 tax requirements of this chapter. Any person who willfully  
27 ~~violates this section of law shall be subject to a Department~~

1 ~~of Revenue penalty~~ misuses or unlawfully acquires a license  
2 plate issued under this section in a manner not authorized by  
3 this section and rules adopted pursuant to this section shall  
4 be subject to a penalty assessed by the department in the  
5 amount of ~~one hundred dollars (\$100)~~ two hundred dollars  
6 (\$200) for the first violation and five hundred dollars (\$500)  
7 for each subsequent violation.

8           "~~(l)~~ (n) A licensed new or used motor vehicle dealer  
9 shall register any motor vehicle and purchase an Alabama  
10 license plate of the proper classification for any motor  
11 vehicle withdrawn from the inventory of the dealer.

12           "~~(m)~~ (o) A motor vehicle dealer, motorcycle dealer,  
13 ~~dealer transit,~~ or manufacturer license plate may be replaced  
14 in accordance with Section 40-12-265.

15           "~~(n)~~ (p) Any person who makes willful misstatements  
16 or files documents with erroneous information in order to  
17 obtain motor vehicle dealer, motorcycle dealer, dealer  
18 transit, auction transit, or manufacturer license plates shall  
19 be guilty of a Class A misdemeanor subject to criminal  
20 penalties as provided by law, and may be assessed a civil  
21 penalty of one thousand dollars (\$1,000) by the department.

22           "~~(o)~~ (q) A new or used motor vehicle dealer, motor  
23 vehicle rebuilder, or motor vehicle wholesaler, licensed  
24 pursuant to Section 40-12-51, 40-12-62, or 40-12-169 and  
25 Section 40-12-391, or a manufacturer of private passenger  
26 automobiles, motorcycles, trucks, truck tractors, or trailers,  
27 ~~licensed pursuant to this section,~~ that is licensed pursuant

1 to Section 40-12-87, is prohibited from renewing his or her  
2 licenses if the new or used motor vehicle dealer, motor  
3 vehicle rebuilder, motor vehicle wholesaler, or manufacturer  
4 fails to pay any outstanding liabilities resulting from the  
5 assessment of penalties provided in this section.

6 "§40-12-390.

7 The following words and phrases, when used in this  
8 article, shall have the following meanings:

9 "(1) COMMISSIONER. The state Commissioner of  
10 Revenue.

11 "(2) DEPARTMENT. The Department of Revenue.

12 "~~(2)~~ (3) DISTRIBUTOR. Any person, ~~firm, or~~  
13 ~~corporation~~ engaged in the business of selling or distributing  
14 new motor vehicles to new motor vehicle dealers.

15 "(4) FACILITATOR. Any person or his or her designee  
16 who facilitates an off-site sale licensed under Section  
17 40-12-395. The term may include the owner of the property  
18 where the off-site sale is being conducted.

19 "~~(3)~~ (5) MANUFACTURER. Any person, ~~firm, or~~  
20 ~~corporation~~ engaged in the business of manufacturing or  
21 assembling new and unused motor vehicles.

22 "(6) MASTER DEALER LICENSE. The license issued by  
23 the department pursuant to this article.

24 "~~(4)~~ (7) MOTOR VEHICLE. Any motor vehicle as defined  
25 in Section 40-12-240, but the term shall not include any  
26 trailer not required to have a certificate of title.

1           "~~(5)~~ (8) MOTOR VEHICLE REBUILDER. Any person, ~~firm,~~  
2 ~~or corporation~~ engaged in the business of making or causing to  
3 be made extensive repairs, replacements, or combination of  
4 different motor vehicles to the extent of extinguishing the  
5 identity of the original vehicle to the extent that the  
6 finished motor vehicle may be assigned a new identification to  
7 be issued by the ~~Department of Revenue~~ department under ~~the~~  
8 ~~provisions of~~ Chapter 8 of Title 32. The term also includes  
9 any person, ~~firm, or corporation~~ engaged in the business of  
10 refurbishing, repairing, or replacing damaged parts of motor  
11 vehicles for the purpose of preparing the vehicle for resale  
12 under the same identification and identity as the vehicle had  
13 before the refurbishing.

14           "~~(6)~~ (9) MOTOR VEHICLE WHOLESALER. Any person, ~~firm,~~  
15 ~~or corporation~~ engaged in the business of buying, selling, or  
16 exchanging motor vehicles at wholesale to motor vehicle  
17 dealers, as defined in this article, and not to the public.

18           "~~(7)~~ (10) NEW MOTOR VEHICLE. A motor vehicle, other  
19 than a used motor vehicle, the legal title of which has never  
20 been transferred by a manufacturer, distributor, or new motor  
21 vehicle dealer to an ultimate purchaser.

22           "~~(8)~~ (11) NEW MOTOR VEHICLE DEALER. Any person, ~~firm,~~  
23 ~~or corporation~~ which holds a bona fide contract or  
24 franchise in this state in effect with a manufacturer or  
25 distributor of new motor vehicles and is engaged in the  
26 business of selling, advertising, or negotiating the sale of  
27 new motor vehicles or new and used motor vehicles, and the

1 duly licensed new motor vehicle dealers shall be the sole and  
2 only persons, ~~firms, or corporations~~ entitled, other than in  
3 connection with the rental or leasing of new motor vehicles by  
4 persons engaged in the business of motor vehicle rental and  
5 leasing, to sell and publicly or otherwise solicit and  
6 advertise for sale new motor vehicles. The term also includes  
7 a motor vehicle rebuilder and motor vehicle wholesaler as  
8 defined in this article.

9 ~~"(9)~~ (12) PERMANENT LOCATION. A building or  
10 structure from which sales of motor vehicles are conducted. ~~A~~  
11 ~~house used as a residence by the business owner, a partner, or~~  
12 ~~a corporate officer from which sales of motor vehicles are~~  
13 ~~conducted may also be a permanent location.~~ The building or  
14 structure must be owned, rented, or leased and must be used as  
15 an office and a place to receive mail, keep records, and  
16 conduct routine business, to include ~~an operable telephone~~  
17 ~~listed with the telephone company~~ utilities under the name of  
18 the licensed business.

19 "(13) PERSON. As defined in Section 40-12-240.

20 ~~"(10)~~ (14) USED MOTOR VEHICLE. A motor vehicle, the  
21 legal title of which has been transferred by a manufacturer,  
22 distributor, or new motor vehicle dealer to an ultimate  
23 purchaser.

24 ~~"(11)~~ (15) USED MOTOR VEHICLE DEALER. Any person,  
25 ~~firm, or corporation~~ engaged in the business of buying,  
26 selling, exchanging, advertising, or negotiating the sale of  
27 five or more motor vehicles, not previously titled or

1 registered in the person's name, at retail during a calendar  
2 ~~year, whether or not the motor vehicles are owned by such~~  
3 ~~person, firm, or corporation,~~ or in offering or displaying  
4 motor vehicles for sale at retail to the public. The term  
5 "selling" or "sale" shall include lease-purchase transactions.  
6 The term "used motor vehicle dealer" does not include banks,  
7 credit unions, licensees of the State Banking Department, and  
8 finance companies which acquire motor vehicles as an incident  
9 to their regular business and does not include motor vehicle  
10 rental and leasing companies. The term also includes a motor  
11 vehicle rebuilder and motor vehicle wholesaler as defined in  
12 this article.

13 ~~"(12)~~ (16) ULTIMATE PURCHASER. With respect to a new  
14 motor vehicle, the first person, ~~firm, or corporation,~~ other  
15 than a new motor vehicle dealer purchasing in his or her  
16 capacity as a new motor vehicle dealer, who in good faith  
17 purchases the new motor vehicle for purposes other than  
18 resale. ~~Ultimate purchaser shall~~ The term does not include a  
19 ~~person, firm, or corporation~~ who purchases a vehicle for  
20 purposes of altering or remanufacturing the motor vehicle for  
21 future resale.

22 "§40-12-391.

23 "(a) No person shall be licensed as ~~an automobile a~~  
24 motor vehicle dealer under ~~the provisions of~~ Section 40-12-51,  
25 40-12-62, or 40-12-169, nor shall any person engage in  
26 business as, serve in the capacity of, or act as a new motor  
27 vehicle dealer, used motor vehicle dealer, motor vehicle

1       rebuilder, or motor vehicle wholesaler in this state, without  
2       first obtaining a master dealer license as provided in this  
3       article and, if a new motor vehicle dealer, or a used motor  
4       vehicle dealer, a state sales tax number.

5               "(b) No person, ~~firm, or corporation~~ shall engage in  
6       the business of buying, selling, exchanging, advertising, or  
7       negotiating the sale of new motor vehicles unless he or she  
8       holds a valid master dealer license as a new motor vehicle  
9       dealer in this state for the make or makes of new motor  
10      vehicles being bought, sold, exchanged, advertised, or  
11      negotiated or unless a bona fide employee or agent of the  
12      licensee.

13              "(c) No person, other than a motor vehicle dealer  
14      licensed under this article, may sell a motor vehicle without  
15      being currently recorded as the owner on the certificate of  
16      title or designated as the attorney-in-fact acting on behalf  
17      of the titled owner. If a person is not in compliance with  
18      this subsection, any state or local licensing official or law  
19      enforcement officer may impound the motor vehicle until the  
20      person provides proper proof of ownership as the currently  
21      recorded owner on the certificate of title or as the  
22      attorney-in-fact acting on behalf of the titled owner, or as  
23      otherwise prescribed by law. This subsection does not apply to  
24      abandoned motor vehicles sold under Chapter 13 of Title 32.

25              "~~(c)~~ (d) Notwithstanding any law of this state  
26      providing otherwise, neither a new motor vehicle dealer nor a

1 used motor vehicle dealer nor any person engaged in the  
2 business of motor vehicle rental and leasing:

3 "(1) With respect to a credit sale transaction, is  
4 required to be licensed under Chapter 19 of Title 5 in order  
5 to pay any amount necessary to satisfy a lease on, security  
6 interest in, or lien on any motor vehicle either returned to  
7 that dealer or to the lessor or traded in by the purchaser in  
8 connection with the credit sale transaction, and to include  
9 that amount as part of the amount to be paid by the purchaser  
10 under the credit sale transaction; or

11 "(2) With respect to a lease transaction, is subject  
12 to Chapter 19 of Title 5 or otherwise deemed to have made a  
13 loan or credit sale by virtue of paying any amount necessary  
14 to satisfy a lease on, security interest in, or lien on any  
15 motor vehicle either returned to that dealer or to the  
16 original lessor or traded in by the lessee in connection with  
17 the lease transaction, and including that amount as part of  
18 the amount to be paid by the lessee under the lease  
19 transaction.

20 "§40-12-392.

21 "(a) The application for a master dealer license  
22 shall be in such form and shall be subject to such rules and  
23 regulations as may be prescribed by the commissioner. An  
24 application shall be verified by the oath or affirmation of  
25 the applicant. If the applicant is a sole proprietorship, the  
26 application shall contain the name and residence of the  
27 applicant. If the applicant is a partnership, the application

1 shall contain the names and residences of each partner. If the  
2 applicant is a corporation, the application shall contain the  
3 names and residences of the officers and directors. If the  
4 applicant is a new motor vehicle dealer, or used motor vehicle  
5 dealer in this state, the application shall contain the state  
6 sales tax number assigned to the applicant. The application  
7 shall enumerate the number of new and used vehicles sold  
8 during the previous calendar year; describe the exact location  
9 of the place of business, and shall state: That the location  
10 is a permanent one; that the location affords sufficient space  
11 upon and within which to adequately display one or more motor  
12 vehicles offered for sale and that an appropriate sign  
13 designates the location as being the place of business of a  
14 motor vehicle dealer; that it is a suitable place from which  
15 the applicant can in good faith carry on such business and  
16 keep and maintain books and records necessary to conduct  
17 business, which shall be available at all reasonable hours for  
18 inspection by the commissioner. The application shall state  
19 that the applicant is either (i) franchised by a manufacturer  
20 of motor vehicles, and, if so, the name of the manufacturer  
21 and line make that the applicant is authorized to represent,  
22 or (ii) a used motor vehicle dealer, rebuilder, or wholesaler.  
23 Upon making application, the person applying shall pay an  
24 application fee ~~of~~ as prescribed by the commissioner of  
25 twenty-five dollars (\$25) through September 30, 2020.  
26 Effective October 1, 2020, the application fee shall be  
27 calculated pursuant to Section 3 of this act to the

1 ~~commissioner~~ and shall be in addition to other fees required  
2 by law. The commissioner may cause an investigation to be made  
3 and upon being satisfied that the facts set forth in the  
4 application are true, shall issue a master dealer license  
5 certificate to the applicant, which shall entitle the licensee  
6 to operate as a motor vehicle dealer, ~~rebuilder, or~~ and  
7 wholesaler for one year from the first day of October of each  
8 year. If the commissioner, upon investigation, determines that  
9 a master dealer license should not be issued, the commissioner  
10 may deny the license and the applicant may appeal the denial  
11 to the Alabama Tax Tribunal as allowed in Chapter 2A of this  
12 title.

13 "(b) Every master dealer license issued under this  
14 article shall be valid for one year from the first day of  
15 October of each year and shall be renewed on October 1 each  
16 year. Thirty days of grace for obtaining the license shall be  
17 allowed without penalty. Thereafter, penalties prescribed  
18 under this article for delinquent licenses shall be imposed.

19 ~~"(b) A motor vehicle rebuilder or a motor vehicle~~  
20 ~~wholesaler who is not a new or used motor vehicle dealer shall~~  
21 ~~not be required to maintain a sign designating the location,~~  
22 ~~and may maintain books, records, and files of his or her~~  
23 ~~business at his or her home; provided, that books, records,~~  
24 ~~and files shall be accessible and available for inspection by~~  
25 ~~the commissioner, inspectors, or employees during normal~~  
26 ~~business hours on usual business days. The location may be~~  
27 ~~adjacent to his or her residence.~~

1           "~~(c) A motor vehicle rebuilder or motor vehicle~~  
2 ~~wholesaler may not sell any motor vehicles or component parts~~  
3 ~~to anyone other than a licensed motor vehicle dealer, motor~~  
4 ~~vehicle wholesaler, or motor vehicle rebuilder, or as salvage.~~

5           "~~(d)~~ (c) New and used motor vehicle dealers, motor  
6 vehicle rebuilders, and motor vehicle wholesalers shall be  
7 required to maintain blanket motor vehicle liability insurance  
8 coverage on vehicles operated on the public streets and  
9 highways of this state, including vehicles in dealership  
10 inventory. Evidence of liability insurance for business and  
11 inventory vehicles shall be filed with the application for  
12 license, and the application for license shall be denied if  
13 proof of liability insurance satisfactory to the commissioner  
14 is not provided. A licensee who fails to maintain a blanket  
15 motor vehicle liability insurance policy during the licensing  
16 period may be assessed a civil penalty of up to five thousand  
17 dollars (\$5,000). The penalty may be assessed against the bond  
18 as provided for in Section 40-12-398.

19           "(d) A person who is subject to the licensing  
20 requirements of this article, but willfully fails to acquire  
21 the license, shall be subject to a penalty of five hundred  
22 dollars (\$500) for the first violation and one thousand  
23 dollars (\$1,000) for the second or subsequent violation.

24           "§40-12-393.

25           "The commissioner shall deposit the application fees  
26 collected under the provisions of this article ~~in~~ into the  
27 State Treasury, which shall be appropriated as follows:

1           "(1) A minimum of twenty-five dollars (\$25) or 10  
2 percent, whichever is greater, of the application fee shall be  
3 appropriated to the General Fund of the state.

4           "(2) The remaining amount shall be continuously  
5 appropriated to the department for the inspection, issuance,  
6 and enforcement of the licensing requirements under this  
7 article.

8           "§40-12-395.

9           "(a) A person licensed under this article shall  
10 obtain a supplemental license for each additional place of  
11 business, in a manner as prescribed by the commissioner and  
12 upon payment of an additional application fee of five dollars  
13 (\$5) for each additional location. The signage and other  
14 requirements of Section 40-12-392 shall apply to each  
15 additional place of business. Only one licensed dealer shall  
16 operate at the same place of business.

17           "(b) Notwithstanding the requirement that sales of  
18 new and used motor vehicles shall be made only from the  
19 permanent location of the new or used motor vehicle dealer,  
20 such dealers may conduct sales of new and used motor vehicles  
21 from locations off-site of their permanent locations on the  
22 following conditions:

23           "(1) The off-site sales events shall not exceed  
24 three per dealer per license year with each sale not to exceed  
25 10 consecutive calendar days in duration. Off-site sales of  
26 new motor vehicles by new motor vehicle dealers shall be  
27 conducted only at a location within the new motor vehicle

1 dealer's area of responsibility as defined in the contract or  
2 franchise agreement between the new motor vehicle dealer and  
3 its manufacturer or distributor. Off-site sales of used motor  
4 vehicles shall be conducted only at a location in the county  
5 or city where the new or used motor vehicle dealer maintains a  
6 permanent location.

7 "(2) The off-site sale need not be conducted in a  
8 building or permanent structure, but the ~~motor vehicle dealer~~  
9 facilitator shall display a temporary sign at the location  
10 where the off-site sale is conducted identifying the name of  
11 the ~~motor vehicle dealer~~ facilitator who is conducting the  
12 sale as stated on the license required by ~~this section~~  
13 subdivision (3) and the name of the motor vehicle dealers who  
14 are participating in the sale as stated on the license  
15 required by subdivision (4). All advertisements and other  
16 notices of the sale must be conducted in the name of the  
17 ~~licensee~~ facilitator.

18 "(3)a. At least 10 calendar days before conducting  
19 each off-site sale, the facilitator of the off-site sale shall  
20 obtain a master off-site sale license by making a license  
21 application to the commissioner and paying an application fee  
22 of twenty-five dollars (\$25) for each off-site sale. On the  
23 application, the facilitator shall list each participating  
24 motor vehicle dealer and the participating motor vehicle  
25 dealer's off-site sale license number, as required in  
26 subdivision (4). The off-site sale license required in  
27 subdivision (4) is not required if the facilitator and motor

1 vehicle dealer are the same entity. Each motor vehicle dealer  
2 participating in the off-site sale shall obtain an off-site  
3 license required by subdivision (4) and provide the license to  
4 the facilitator prior to the facilitator making the  
5 application.

6 "b. The failure of a facilitator to disclose  
7 participating motor vehicle dealers shall subject the  
8 facilitator to the following penalties:

9 "1. A facilitator that is a bonded agent of the  
10 state and in violation of this section shall be subject to a  
11 statutory notice of non-compliance. Subsequent violations may  
12 result in the suspension or revocation of designated agent  
13 status pursuant to Section 32-8-3 and rules adopted under that  
14 section.

15 "2. A facilitator that is not a bonded agent of the  
16 state that is in violation of this section shall be subject to  
17 the penalty provisions as provided in subsection (d) of  
18 Section 40-12-392.

19 "~~(3)~~(4) At least ~~one calendar day~~ 10 calendar days  
20 before conducting each off-site sale, the motor vehicle dealer  
21 shall obtain an off-site sale license by making license  
22 application to the commissioner and paying an application fee  
23 of twenty-five dollars (\$25) for each off-site sale to be  
24 conducted. If more than one motor vehicle dealer participates  
25 in the same off-site sale, each motor vehicle dealer  
26 participating in the sale shall obtain an off-site sale  
27 license from the commissioner.

1           "(c) In addition to the foregoing, the motor vehicle  
2 dealer shall obtain from the judge of probate or other county  
3 licensing official a county license for the off-site location  
4 by paying the county license tax imposed pursuant to ~~Section~~  
5 Sections 40-12-51, 40-12-62, and 40-12-169, and shall provide  
6 to the commissioner proof of payment of the license upon  
7 application for each off-site sale. If more than one motor  
8 vehicle dealer participates in the same off-site sale, each  
9 motor vehicle dealer participating in the sale shall obtain  
10 from the judge of probate or other county licensing official a  
11 county license for the off-site location by paying the county  
12 license tax imposed pursuant to ~~Section~~ Sections 40-12-51,  
13 40-12-62, and 40-12-169.

14           "(d) For purposes of this section, a new motor  
15 vehicle dealer temporarily displaying new vehicles at a  
16 shopping mall, auto show, or other location solely for  
17 advertising or display purposes and from which location sales  
18 are not conducted, shall not be deemed to be conducting an  
19 off-site sale and no off-site sales license shall be required.

20           "(e) For purposes of this section, an off-site sales  
21 license shall not be required for wholesale sales between  
22 licensed motor vehicle dealers or for retail sales by new or  
23 used motor vehicle dealers conducted at the permanent location  
24 of an auction company which is licensed as a used motor  
25 vehicle dealer or motor vehicle wholesale auction.

26           "§40-12-398.

1           "Before any master dealer license ~~shall~~ may be  
2 issued to a new motor vehicle dealer, used motor vehicle  
3 dealer, motor vehicle rebuilder, or motor vehicle wholesaler,  
4 the applicant shall deliver to the commissioner a good and  
5 sufficient surety bond, executed by the applicant as principal  
6 and by a corporate surety company qualified to do business in  
7 the state as surety, in the sum of ~~twenty-five thousand~~  
8 ~~dollars (\$25,000)~~ not less than fifty thousand dollars  
9 (\$50,000) or an amount as prescribed by the department. Such  
10 bond shall be in a form to be approved by the commissioner,  
11 and shall be conditioned that the motor vehicle dealer, motor  
12 vehicle rebuilder, or motor vehicle wholesaler shall comply  
13 with the conditions of any contract made by such dealer in  
14 connection with the sale or exchange of any motor vehicle and  
15 shall not violate any of the provisions of law relating to the  
16 conduct of the business for which he is licensed. Such bond  
17 shall be payable to the commissioner and to his successors in  
18 office, and shall be in favor of any person who shall recover  
19 any judgment for any loss as a result of any violation of the  
20 conditions hereinabove contained. The bond shall serve in lieu  
21 of the bond provided for in subsection (b) of Section 32-8-34  
22 and, in addition to all other conditions, shall also be  
23 conditioned upon their performance of their duties as a  
24 designated agent under Chapter 8 of Title 32. The penalty  
25 provisions provided under this article, in addition to the tax  
26 liability incurred under Chapter 23 of this title on the sale  
27 of a motor vehicle, may be assessed against the bond."

1           Section 2. (a) Beginning October 1, 2020, the  
2 application fee prescribed in Section 40-12-392, Code of  
3 Alabama 1975, shall be equal to the average of the annual  
4 dealer license fees, as of January 1, 2020, of the contiguous  
5 states to Alabama and shall be rounded to the nearest  
6 twenty-five dollars (\$25). The Department of Revenue may  
7 adjust these fees once every five years thereafter using the  
8 same calculation; provided, the adjusted fee may not exceed  
9 the application fee provided under Section 40-12-413, Code of  
10 Alabama 1975.

11           (b) On or after October 1, 2022, the Department of  
12 Revenue, by rule, may establish a bi-annual license in lieu of  
13 the annual license provided under Section 40-12-391, Code of  
14 Alabama 1975. The application fee for the bi-annual license  
15 may not exceed double the amount charged for the application  
16 fee or for the annual license.

17           Section 3. Article 10, commencing with Section  
18 40-12-445, is added to Chapter 12 of Title 40, Code of Alabama  
19 1975, to read as follows:

20           §40-12-445.

21           As used in this article, the following words shall  
22 have the following meanings:

23           (1) AUTOMOTIVE DISMANTLER AND PARTS RECYCLER. As  
24 defined in Section 40-12-410.

25           (2) COMMISSIONER. The Commissioner of Revenue.

26           (3) DEPARTMENT. The Department of Revenue.

27           (4) MOTOR VEHICLE. As defined in Section 40-12-390.

1 (5) MOTOR VEHICLE REBUILDER. As defined in Section  
2 40-12-390.

3 (6) NEW MOTOR VEHICLE DEALER. As defined in Section  
4 40-12-390.

5 (7) PERSON. As defined in Section 40-12-240.

6 (8) PLACE OF BUSINESS. The place owned or leased and  
7 regularly occupied by a person for the principal purpose of  
8 engaging in the business of a wholesale motor vehicle auction  
9 from which the wholesale of motor vehicles is conducted and  
10 where the books and records required for the conduct of  
11 business are maintained and kept.

12 (9) USED MOTOR VEHICLE DEALER. As defined in Section  
13 40-12-390.

14 (10) MOTOR VEHICLE WHOLESALE AUCTION. Any person  
15 engaged in the business of buying, selling, exchanging, or  
16 facilitating the sale of motor vehicles at wholesale to new or  
17 used motor vehicle dealers and automotive dismantler and parts  
18 recyclers and not to the public.

19 §40-12-446.

20 (a) A person may not engage in the business of a  
21 motor vehicle wholesale auction unless the person is licensed  
22 under this article by the department.

23 (b) A person desiring to engage in the business of a  
24 motor vehicle wholesale auction shall apply to the department  
25 on a form prescribed by the department. The form shall contain  
26 all of the following:

27 (1) The legal name of the applicant.

1           (2) The street address of the applicant's principal  
2 place of business.

3           (3) The street address of the applicant's  
4 headquarters, if different from the applicant's principal  
5 place of business.

6           (4) Any additional information as may be required by  
7 the department.

8           (c) A motor vehicle wholesale auction shall be  
9 required to maintain books, records, and files that shall be  
10 accessible and available for inspection by the department  
11 during normal business hours on usual business days. The  
12 department, by rule, shall establish electronic reporting  
13 requirements regarding the sale of motor vehicles at the motor  
14 vehicle wholesale auction.

15           (d) Every licensee under this article shall keep  
16 books and records in a form prescribed by the department. The  
17 books and records shall include purchases, sales or exchanges,  
18 and receipts of every motor vehicle purchased or sold or held  
19 for sale at the location of the licensee. In addition, the  
20 books and records shall include a description of each motor  
21 vehicle, which shall include the vehicle identification number  
22 of each motor vehicle, together with the name and address of  
23 any seller or purchaser of the motor vehicle.

24           (e) A motor vehicle wholesale auction may not sell a  
25 motor vehicle or component parts to anyone other than a  
26 licensed new or used motor vehicle dealer, motor vehicle  
27 wholesaler, or motor vehicle rebuilder.

1 §40-12-447.

2 (a) An application for a license as a motor vehicle  
3 wholesale auction shall be accompanied by a state privilege  
4 license fee equal to the fee levied under Section 40-12-392  
5 and any additional fee for issuing licenses as may be  
6 otherwise prescribed by law.

7 (b) A privilege license issued to a motor vehicle  
8 wholesale auction under this article shall be valid for one  
9 year from the first day of October and shall be renewed on  
10 October 1 of each year. Thirty days of grace for obtaining the  
11 license shall be allowed without penalty. Thereafter,  
12 penalties prescribed under this article for delinquent  
13 licenses shall be imposed.

14 §40-12-448.

15 (a) Except as provided in subsection (b), before  
16 being licensed under this article, a person shall demonstrate  
17 proof of responsibility by depositing with the commissioner a  
18 continuing surety bond in the amount prescribed under Section  
19 40-12-398 from a company authorized to do business in the  
20 state. The bond must be approved by the commissioner, payable  
21 to the state, and conditioned upon the faithful observance of  
22 all the provisions of this article. The bond must also  
23 indemnify any person who suffers a loss by reason of failure  
24 to observe the provisions of this article.

25 (b) The department, by rule, may permit a surety  
26 bond obtained under Section 40-12-398 to serve in lieu of the  
27 surety bond prescribed in subsection (a).

1 §40-12-449.

2 (a) Subject to the appeal provisions allowed under  
3 Chapter 2A of this title, the commissioner may suspend or  
4 revoke a license issued for the willful and intentional  
5 failure of the licensee to comply with this article.

6 (b) A license may be revoked or a license  
7 application may be denied by the department for any of the  
8 following reasons:

9 (1) Fraud practiced or any material misstatement in  
10 the license application.

11 (2) Change of condition after a license is granted  
12 or the failure to maintain qualification for the license.

13 (3) Skipping title assignment: Accepting open  
14 assignment of title or bill of sale for a motor vehicle which  
15 is not completed by identifying the licensee as the purchaser  
16 or assignee of the motor vehicle.

17 (4) Having no established place of business.

18 (5) Failing to properly keep and maintain records.

19 (6) Knowingly dealing in stolen motor vehicles,  
20 parts, or accessories.

21 (7) Willful failure to comply with this article or  
22 any rule adopted under this article.

23 (8) Disconnecting, turning back, or resetting the  
24 odometer of a motor vehicle in violation of state or federal  
25 law.

26 (9) Filing a materially erroneous or fraudulent tax  
27 return with the department.

1           (10) Revocation as a designated agent, as provided  
2 in Section 32-8-34, for failing to faithfully perform his or  
3 her duties as a designated agent.

4           (c) Subject to the notice and appeal provisions  
5 under Chapter 2A of this title, the commissioner may do any of  
6 the following:

7           (1) Refuse to license a person who does not meet the  
8 requirements of this article.

9           (2) Cancel the license of a licensee for willful  
10 failure to continue to meet the requirements of this article.

11           (3) Refuse, cancel, or revoke a license for a state  
12 or federal felony conviction involving theft or for a  
13 violation of Chapter 8 of Title 32, relating to the Uniform  
14 Certificate of Title and Antitheft Act, or a similar law of  
15 another state by an applicant; a licensee; a partner of an  
16 applicant; or, in the case of a corporate applicant or  
17 licensee, a director or manager of the licensee.

18           §40-12-450.

19           A person who violates this article is guilty of a  
20 Class A misdemeanor. In addition, the department may assess  
21 against the person a civil penalty of up to five thousand  
22 dollars (\$5,000). The penalty may be assessed against the bond  
23 as provided for in Section 40-12-398.

24           Section 4. Although this bill would have as its  
25 purpose or effect the requirement of a new or increased  
26 expenditure of local funds, the bill is excluded from further  
27 requirements and application under Amendment 621, now

1 appearing as Section 111.05 of the Official ReCompilation of  
2 the Constitution of Alabama of 1901, as amended, because the  
3 bill defines a new crime or amends the definition of an  
4 existing crime.

5 Section 5. Section 2 of this act shall become  
6 effective on the first day of the third month following its  
7 passage and approval by the Governor, or its otherwise  
8 becoming law. The remaining sections of this act shall become  
9 effective October 1, 2020, following its passage and approval  
10 by the Governor, or its otherwise becoming law.