

SENATE BILL 20

R4

7lr0449

(PRE-FILED)

By: **Senator Mathias**

Requested: July 26, 2016

Introduced and read first time: January 11, 2017

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Wicomico County – Vehicle Dealer’s Licenses – Motor Home and Travel Trailer**
3 **Shows**

4 FOR the purpose of exempting an out-of-state dealer of Class M motor homes or Class G
5 trailers from certain license requirements solely for the purpose of displaying and
6 selling vehicles at a certain vehicle show in Wicomico County; authorizing an
7 out-of-state dealer of Class M motor homes or Class G trailers, or a salesman who
8 is employed by the dealer, to participate in a certain vehicle show in Wicomico
9 County; authorizing the Motor Vehicle Administration to require a certain
10 out-of-state dealer, or a salesman who is employed by the dealer, to register with
11 the Administration a certain number of days before a certain vehicle show, submit
12 proof of the out-of-state dealer’s license status, and pay a certain registration fee;
13 authorizing certain dealers and salesmen to conduct all activities involved in a
14 vehicle sale at a certain vehicle show in Wicomico County; making conforming
15 changes; defining a certain term; requiring the Administration to adopt certain
16 regulations; and generally relating to motor home and travel trailer shows in
17 Wicomico County.

18 BY repealing and reenacting, with amendments,
19 Article – Transportation
20 Section 15–101, 15–302, and 15–304
21 Annotated Code of Maryland
22 (2012 Replacement Volume and 2016 Supplement)

23 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
24 That the Laws of Maryland read as follows:

25 **Article – Transportation**

26 15–101.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(a) In this title the following words have the meanings indicated.

(b) “Administration funds” means any payment or other money which is:

(1) Paid to a person licensed under Subtitle 2, 3, 4, or 6 of this title; and

(2) Owed to the Administration for payment of taxes or fees.

(c) (1) “Dealer” means, except as provided in paragraph (3) of this subsection, a dealer in vehicles of a type required to be registered under Title 13 of this article.

(2) (i) “Dealer” includes:

1. A person who is in the business of buying, selling, or exchanging vehicles, including a person who during any 12-month period offers to sell three or more of these vehicles, the ownership of which was acquired for resale purposes; and

2. For the purposes of §§ 15–301 through 15–315, inclusive, of this title, any person who sells vehicles, whether or not that person acquired the vehicles for personal or business use, if the vehicles are displayed at a fixed location used principally for the purpose of selling vehicles on a regular basis.

(ii) 1. For the purposes of subparagraph (i)1 of this paragraph, a person who offers to sell three or more vehicles during any 12-month period is presumed to have acquired the vehicles for resale purposes.

2. The vehicle owner has the burden of rebutting the presumption established under sub-subparagraph 1 of this subparagraph by a preponderance of the evidence.

(3) “Dealer” does not include:

(i) A public official who sells or disposes of vehicles in the performance of his official duties;

(ii) An insurance company, finance company, bank, or other lending institution licensed or otherwise authorized to do business in this State that, to save it from loss, sells or disposes of vehicles under a contractual right and in the regular course of its business;

(iii) A licensed auctioneer acting on behalf of a seller, secured party or owner and where title does not pass to the auctioneer and the auction is not for the purpose of avoiding the provisions of this title;

(iv) A receiver, trustee, personal representative, or other person appointed by or acting under the authority of any court;

(v) Either a manufacturer or distributor who sells or distributes vehicles to licensed dealers or a person employed by a manufacturer or distributor to promote the sale of the vehicles of the manufacturer or distributor, if that manufacturer, distributor, or person does not sell vehicles to retail buyers;

(vi) A person who sells or disposes of vehicles acquired and used for personal or business use and not for the purpose of avoiding the provisions of this title, if that person is not engaged in buying, selling, or exchanging vehicles as a business;

(vii) An automotive dismantler and recycler who during the normal course of business acquires a salvage vehicle and transfers the vehicle on a salvage certificate. However, if the automotive dismantler and recycler rebuilds and sells more than 5 vehicles during a 12-month period to a person other than another automotive dismantler and recycler or licensed dealer, the automotive dismantler and recycler must be licensed as a dealer under § 15–302 of this title;

(viii) A person engaged in the leasing of motor vehicles under leases not intended as security; or

(ix) A religious, charitable, or volunteer organization exempt from taxation under § 501(c) of the Internal Revenue Code, the Department of Human Resources, or a local department of social services transferring a vehicle under § 13–810 of this article.

(d) “New Class A vehicle” and “new Class B vehicle” means a new vehicle that, if later sold and registered in this State, could be registered either as a Class A (passenger) vehicle or a Class B (for hire) vehicle, as the case may be.

(e) **“OUT-OF-STATE DEALER” MEANS A PERSON WHO IS LICENSED AS A DEALER IN A STATE OTHER THAN MARYLAND.**

(F) “Truck component part” means a truck’s engine, power train, or rear axle that is not warranted by the final manufacturer of the truck.

~~[(f)]~~ (G) “Two-stage vehicle” means a two-stage vehicle, as defined in § 13–113.2 of this article, that is of a type required to be registered under Title 13 of this article.

~~[(g)]~~ (H) (1) “Vehicle salesman” means, except as provided in paragraph (2) of this subsection, any individual who:

(i) For a commission or other compensation, under any form of agreement or arrangement with a dealer, buys, sells, or exchanges or negotiates or attempts to negotiate a sale or exchange of an interest in a vehicle of a type required to be registered under Title 13 of this article; or

(ii) Induces or attempts to induce any other person to buy or exchange an interest in a vehicle of a type required to be registered under Title 13 of this article and receives or expects to receive a commission or other compensation from either the seller or the buyer of the vehicle.

(2) "Vehicle salesman" does not include:

(i) A person described in subsection (c)(3) of this section;

(ii) An individual acting as a representative of a person described in subsection (c)(3) of this section;

(iii) A person who:

1. Is compensated for arranging for the leasing of a vehicle for a period exceeding 180 days; and

2. As an incidental step in the consummation of the lease, induces or arranges for the sale of a vehicle from a licensed dealer to another person, who in turn leases the vehicle to a lessee under a lease not intended as a security; or

(iv) A person engaged in the leasing of vehicles under leases not intended as security.

15–302.

(a) **[A] EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A** person may not conduct the business of a dealer unless the person is licensed by the Administration under this subtitle.

(b) Any person who has been refused a dealer's license in this State or whose dealer's license is revoked or suspended may not conduct the business of a dealer under any license, permit, or registration certificate issued by any other jurisdiction.

(C) AN OUT-OF-STATE DEALER OF CLASS M MOTOR HOMES OR CLASS G TRAILERS SHALL BE EXEMPTED FROM LICENSING SOLELY FOR THE PURPOSES OF DISPLAYING AND SELLING VEHICLES AT A VEHICLE SHOW IN WICOMICO COUNTY IN ACCORDANCE WITH § 15–304(F) OF THIS SUBTITLE.

15–304.

(a) Except as provided in subsection (b) of this section, a person may not be licensed under this subtitle unless:

(1) The business to be conducted under the license is the only or principal business conducted from the fixed location specified in the application;

(2) That business is conducted from a building that is adequate and appropriate for the sale of the vehicles that may be sold under the license; and

(3) That business either:

(i) Maintains and operates an automotive repair facility equipped for reasonably adequate and proper servicing of the vehicles to be sold by it; or

(ii) Has an existing contract, approved by the Administration, that requires the contractor to service, at a reasonably convenient location, the vehicles to be sold by the business.

(b) (1) As to trailers, semitrailers, motorcycles, Class C (funeral and ambulance) vehicles, or emergency vehicles as defined in § 11-118(2), (5), and (6) of this article, the sale of these vehicles need not be the only or principal business conducted from the fixed location, but shall be subject to any reasonable location requirements determined by the Administration by rule or regulation.

(2) A wholesale dealer may be licensed under this subtitle regardless of whether the wholesale dealer meets the requirements of subsection (a)(1) and (3) of this section, but a wholesale dealer shall be subject to any reasonable location requirements determined by the Administration by rule or regulation.

(c) (1) Notwithstanding the provisions of this section:

[(1)] (I) A new vehicle dealer, or a licensed vehicle salesman who is employed by the dealer, may participate in 2 annual vehicle shows for each dealer location;

(II) A NEW VEHICLE DEALER FRANCHISED TO SELL CLASS M MOTOR HOMES OR CLASS G TRAILERS, OR A LICENSED SALESMAN WHO IS EMPLOYED BY THE DEALER, MAY PARTICIPATE IN MORE THAN 2 ANNUAL VEHICLE SHOWS, IF THE SHOWS ARE LIMITED TO CLASS M MOTOR HOMES OR CLASS G TRAILERS; AND

(III) SUBJECT TO SUBSECTION (F) OF THIS SECTION, AN OUT-OF-STATE DEALER OF CLASS M MOTOR HOMES OR CLASS G TRAILERS, OR A SALESMAN WHO IS EMPLOYED BY THE DEALER, MAY PARTICIPATE IN 1 ANNUAL VEHICLE SHOW IN WICOMICO COUNTY.

(2) A display or exhibit of vehicles provided by a vehicle manufacturer is not a vehicle show under this section if buyers' orders are not executed and deposits are not accepted.

[(3) A new vehicle dealer franchised to sell Class M motor homes or Class G trailers, or a licensed salesman who is employed by the dealer, may participate in more

1 than 2 annual vehicle shows, if the shows are limited to Class M motor homes or Class G
2 trailers.]

3 (d) A vehicle dealer or [licensed] vehicle salesman listed in subsection (c) of this
4 section may participate in a vehicle show if:

5 (1) (I) The dealer holds a valid license issued under this title; OR

6 (II) **THE DEALER IS EXEMPTED FROM LICENSING UNDER §**
7 **15-302(C) OF THIS SUBTITLE;** and

8 (2) At least 60 days before the vehicle show, an application is filed with the
9 Administration, for approval by the Administration, that contains:

10 (i) A list of the names and business addresses of participating
11 dealers;

12 (ii) The location of the vehicle show;

13 (iii) The specific dates on which the vehicle show will be held; and

14 (iv) Other reasonable information required by the Administration;
15 and

16 (3) The vehicle show does not exceed 10 consecutive days and is restricted
17 to new vehicles only.

18 (e) (1) **[A] EXCEPT AS PROVIDED IN SUBSECTION (F) OF THIS SECTION, A**
19 licensed dealer, or a licensed vehicle salesman who is employed by the dealer, who
20 participates in a vehicle show may execute a buyer's order and accept a deposit **ONLY** as
21 provided in paragraph (2) of this subsection.

22 (2) A licensed dealer may not accept a deposit that:

23 (i) For an order for any vehicle, except a Class M motor home,
24 exceeds 5 percent of the cost of the vehicle; or

25 (ii) For an order of a Class M motor home, exceeds 10 percent of the
26 cost of the motor home.

27 (3) Except as otherwise provided in paragraph (1) of this subsection **AND**
28 **SUBSECTION (F) OF THIS SECTION**, a licensed dealer, or a licensed vehicle salesman who
29 is employed by the dealer, shall conduct activities involved in a vehicle sale, including the
30 completion of the sales contract, the issuance of temporary registration plates and a
31 temporary registration certificate, and delivery of the vehicle, at the dealer's fixed location
32 as shown in the dealer's application for the license.

1 **(F) (1) IN WICOMICO COUNTY, AN OUT-OF-STATE DEALER OF CLASS M**
2 **MOTOR HOMES OR CLASS G TRAILERS, OR A SALESMAN WHO IS EMPLOYED BY THE**
3 **DEALER, MAY PARTICIPATE IN A VEHICLE SHOW IF:**

4 **(I) THE SHOW DOES NOT EXCEED 10 CONSECUTIVE DAYS;**

5 **(II) THE SHOW IS LIMITED TO NEW CLASS M MOTOR HOMES AND**
6 **CLASS G TRAILERS ONLY;**

7 **(III) THE SHOW INCLUDES A MINIMUM OF 1,500 VEHICLES; AND**

8 **(IV) ADMISSION TAXES ARE PAID ON CHARGES FOR ADMISSION**
9 **TO THE SHOW.**

10 **(2) THE ADMINISTRATION MAY REQUIRE AN OUT-OF-STATE DEALER,**
11 **OR A SALESMAN WHO IS EMPLOYED BY THE DEALER, TO:**

12 **(I) REGISTER WITH THE ADMINISTRATION A REASONABLE**
13 **NUMBER OF DAYS BEFORE A VEHICLE SHOW HELD UNDER THIS SUBSECTION;**

14 **(II) SUBMIT PROOF OF THE OUT-OF-STATE DEALER'S LICENSE**
15 **STATUS; AND**

16 **(III) PAY A REASONABLE REGISTRATION FEE, IN AN AMOUNT SET**
17 **BY THE ADMINISTRATION, NOT TO EXCEED THE COST OF PROCESSING THE**
18 **REGISTRATION.**

19 **(3) A LICENSED VEHICLE DEALER, LICENSED SALESMAN WHO IS**
20 **EMPLOYED BY A LICENSED VEHICLE DEALER, OUT-OF-STATE VEHICLE DEALER, OR**
21 **SALESMAN WHO IS EMPLOYED BY AN OUT-OF-STATE VEHICLE DEALER MAY**
22 **CONDUCT ALL ACTIVITIES INVOLVED IN A VEHICLE SALE AT A VEHICLE SHOW HELD**
23 **UNDER THIS SUBSECTION, INCLUDING:**

24 **(I) EXECUTING A BUYER'S ORDER;**

25 **(II) ACCEPTING A DEPOSIT;**

26 **(III) COMPLETING A SALES CONTRACT;**

27 **(IV) ISSUING TEMPORARY REGISTRATION PLATES AND A**
28 **TEMPORARY REGISTRATION CERTIFICATE; AND**

1 **(v) DELIVERING THE VEHICLE TO THE BUYER.**

2 **(4) THE ADMINISTRATION SHALL ADOPT REGULATIONS TO CARRY**
3 **OUT THIS SUBSECTION.**

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 October 1, 2017.