SENATE BILL NO. 2919

AN ACT TO AMEND SECTION 27-19-303, MISSISSIPPI CODE OF 1972, TO REVISE THE DEFINITION OF THE TERMS "MOTOR VEHICLE DEALER" AND "LIMITED MOTOR VEHICLE DEALER" IN THE MOTOR VEHICLE DEALER TAG PERMIT LAW AS THEY RELATE TO THE NUMBER OF VEHICLES THAT MUST BE SOLD; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 27-19-303, Mississippi Code of 1972, is amended as follows:

27-19-303. The following words and phrases, when used in this article, shall for purposes thereof have the meaning respectively ascribed thereto as follows:

(1) "Motor vehicle" shall mean every vehicle intended primarily for use and operation on the public highways, which is self-propelled and every vehicle intended primarily for operation on the public highways, which is not driven or propelled by its own power, but which is designed either to be attached to and become a part of or to be drawn by a self-propelled vehicle, but not including farm tractors and other machines and tools used in production, harvesting and care of farm products.

(2) "Person" shall mean every natural person, firm, copartnership, association or corporation.

(3) "Motor vehicle dealer" shall mean any business engaged in the selling or exchanging of new or new and used motor vehicles or used vehicles; and, which has an established place of business open for inspection at any time by any peace officer or the Chairman of the State Tax Commission or one of his authorized representatives during reasonable hours; and, which buys and sells or exchanges at least five (5) vehicles per year.
(4) "Dealer" shall mean such of the principal officers of a corporation registered as a motor vehicle dealer, and such of the partners of a copartnership registered as a motor vehicle dealer as are actively and principally engaged in the motor vehicle business. The term "dealer" shall not include:

(a) Directors, stockholders or inactive partners; or
(b) Receivers, trustees, administrators, executors, guardians, or other persons appointed by or acting under any judgment or order of any court, whether state or federal; or
(c) Public officers while performing their official duties; or
(d) Persons disposing of motor vehicles acquired for their own use and actually so used when the same shall have been used, so acquired in good faith, and not for the purpose of avoiding the provisions of this article; or
(e) Persons who shall sell motor vehicles as an incident to their principal business but who are not engaged primarily in selling motor vehicles. The foregoing shall include only finance companies or banks which sell repossessed motor vehicles, and insurance companies which sell motor vehicles which they have taken into their possession as an incident of payment made under policies of insurance, and which do not maintain a used car lot or building with one (1) or more employed motor vehicle salesmen.

(5) "New motor vehicle dealer" shall mean a business dealing in new motor vehicles, tractors, trailers or semitrailers, or new and used motor vehicles, tractors, trailers or semitrailers.

(6) "Used motor vehicle dealer" shall mean a business dealing in used motor vehicles, tractors, trailers or semitrailers. "Automobile dismantlers" shall also be classified as used motor vehicle dealers.

(7) "Established place of business" shall mean any place owned or leased and regularly occupied by any person for the
primary and principal purpose of engaging in selling, buying,
bartering, exchanging or dealing in motor vehicles, tractors,
trailers or semitrailers, whether same may be displayed or offered
for sale and where the books and records required of the conduct
of such business are maintained and kept. Established places of
business shall be open for inspection at any time by any peace
officer or employee of the State Tax Commission during reasonable
hours. To constitute a place of business, it shall be apparent
that there is a holding out to the general public that an
establishment is offering motor vehicles, tractors, trailers and
semitrailers for sale. There shall be an office separate from and
not in conjunction with or related to any other business for the
purpose of transacting the business of offering motor vehicles,
tractors, trailers or semitrailers for sale, or in lieu of such
office there shall be an adequate display of identification as a
motor vehicle dealer as specified by the Chairman of the State Tax
Commission.

(8) "Automobile dismantler" shall mean any person who
maintains an established place of business and who is engaged in
the business of buying, selling or exchanging used motor vehicles,
mobile homes or house trailers for the purpose of remodeling,
taking apart or rebuilding same or buying and selling of parts of
used motor vehicles and shall be classified as a used motor
vehicle dealer.

(9) "Automobile auction" shall mean any person, firm,
association, corporation or trust, resident or nonresident, acting
as an agent for the purchaser or seller of motor vehicles.

(10) "Department" or "commission" shall mean the Chairman of
the State Tax Commission.

(11) "Limited motor vehicle dealer" or "limited dealer"
shall mean any business engaged in the selling or exchanging of
new or used motor vehicles, or both, which buys and sells or
exchanges fewer than five (5) vehicles and is granted a limited
license at the discretion of the Chairman of the State Tax Commission. Such limited dealer shall be awarded all privileges of a "motor vehicle dealer," except for the purchase and use of distinguishing number tags. A limited dealer shall abide by all provisions and requirements of this article associated with a "motor vehicle dealer."

(12) "Wholesale motor vehicle dealer" or "wholesale dealer" shall mean any business engaged in the selling or exchanging of new or used motor vehicles, or both, strictly on a wholesale basis with no inventory being maintained which is granted a wholesale license at the discretion of the Chairman of the State Tax Commission. Such wholesale dealer shall be awarded all privileges of a "motor vehicle dealer," except for the purchase and use of distinguishing number tags. A wholesale dealer shall abide by all provisions and requirements of this article associated with a "motor vehicle dealer," except for the requirement of the "established place of business" and the requirement to buy, sell or exchange at least five (5) motor vehicles per year.

SECTION 2. This act shall take effect and be in force from and after July 1, 2002.