

By: Senator(s) Robertson

To: Finance

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2739

1 AN ACT TO AMEND SECTION 27-19-303, MISSISSIPPI CODE OF 1972,
2 TO REQUIRE A PERSON TO SELL 24 MOTOR VEHICLES OF THE SAME TYPE PER
3 YEAR IN ORDER TO FALL WITHIN THE DEFINITION OF THE TERM "MOTOR
4 VEHICLE DEALER" UNDER THE MOTOR VEHICLE TAG PERMIT LAW; AND FOR
5 RELATED PURPOSES.

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

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

9 27-19-303. The following words and phrases, when used in
10 this article, shall for purposes thereof have the meaning
11 respectively ascribed thereto as follows:

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

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

22 (c) "Motor vehicle dealer" shall mean any business
23 engaged in the selling or exchanging of new or new and used motor
24 vehicles or used vehicles; and, which has an established place of
25 business open for inspection at any time by any peace officer or
26 the Chairman of the State Tax Commission or one of his authorized
27 representatives during reasonable hours; and, which buys and sells
28 or exchanges at least twenty-four (24) motor vehicles per year

29 that are the same motor vehicle type for which distinguishing
30 number tags are being sought under this article. For purposes of
31 this paragraph each of the following categories shall be
32 considered a different motor vehicle type:

33 (i) Motor vehicles (as defined under Section
34 27-19-3) with a gross vehicle weight (as defined under Section
35 27-19-3) of less than sixteen thousand (16,000) pounds, not
36 including motorcycles;

37 (ii) Motorcycles;

38 (iii) Trailers, semitrailers and house trailers;

39 and

40 (iv) Motor vehicles not included in subparagraphs
41 (i), (ii) and (iii) of this paragraph.

42 (d) "Dealer" shall mean such of the principal officers
43 of a corporation registered as a motor vehicle dealer, and such of
44 the partners of a copartnership registered as a motor vehicle
45 dealer as are actively and principally engaged in the motor
46 vehicle business. The term "dealer" shall not include:

47 (i) Directors, stockholders or inactive partners;

48 or

49 (ii) Receivers, trustees, administrators,
50 executors, guardians, or other persons appointed by or acting
51 under any judgment or order of any court, whether state or
52 federal; or

53 (iii) Public officers while performing their
54 official duties; or

55 (iv) Persons disposing of motor vehicles acquired
56 for their own use and actually so used when the same shall have
57 been used, so acquired in good faith, and not for the purpose of
58 avoiding the provisions of this article; or

59 (v) Persons who shall sell motor vehicles as an
60 incident to their principal business but who are not engaged
61 primarily in selling motor vehicles. The foregoing shall include

62 only finance companies or banks which sell repossessed motor
63 vehicles, and insurance companies which sell motor vehicles which
64 they have taken into their possession as an incident of payment
65 made under policies of insurance, and which do not maintain a used
66 car lot or building with one (1) or more employed motor vehicle
67 salesmen.

68 (e) "New motor vehicle dealer" shall mean a business
69 dealing in new motor vehicles, tractors, trailers or semitrailers,
70 or new and used motor vehicles, tractors, trailers or
71 semitrailers.

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

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

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

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

105 (j) "Department" or "commission" shall mean the
106 Chairman of the State Tax Commission.

107 (k) "Limited motor vehicle dealer" or "limited dealer"
108 shall mean any business engaged in the selling or exchanging of
109 new or used motor vehicles, or both, which buys and sells or
110 exchanges fewer than the number of motor vehicles required to be
111 sold or exchanged in order to fall within the definition of the
112 term "motor vehicle dealer" and is granted a limited license at
113 the discretion of the Chairman of the State Tax Commission. Such
114 limited dealer shall be awarded all privileges of a "motor vehicle
115 dealer," except for the purchase and use of distinguishing number
116 tags. A limited dealer shall abide by all provisions and
117 requirements of this article associated with a "motor vehicle
118 dealer."

119 (l) "Wholesale motor vehicle dealer" or "wholesale
120 dealer" shall mean any business engaged in the selling or
121 exchanging of new or used motor vehicles, or both, strictly on a
122 wholesale basis with no inventory being maintained which is
123 granted a wholesale license at the discretion of the Chairman of
124 the State Tax Commission. Such wholesale dealer shall be awarded
125 all privileges of a "motor vehicle dealer," except for the
126 purchase and use of distinguishing number tags. A wholesale
127 dealer shall abide by all provisions and requirements of this

128 article associated with a "motor vehicle dealer," except for the
129 requirement of the "established place of business" and the
130 requirement to buy, sell or exchange a certain number of motor
131 vehicles per year.

132 **SECTION 2.** This act shall take effect and be in force from
133 and after July 1, 2005.