

By: Senator(s) Robertson

To: Finance

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

22 (3) "Motor vehicle dealer" shall mean any business engaged
23 in the selling or exchanging of new or new and used motor vehicles
24 or used vehicles; and, which has an established place of business
25 open for inspection at any time by any peace officer or the
26 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 of the same
29 type per year.

30 (4) "Dealer" shall mean such of the principal officers of a
31 corporation registered as a motor vehicle dealer, and such of the
32 partners of a copartnership registered as a motor vehicle dealer
33 as are actively and principally engaged in the motor vehicle
34 business. The term "dealer" shall not include:

35 (a) Directors, stockholders or inactive partners; or

36 (b) Receivers, trustees, administrators, executors,
37 guardians, or other persons appointed by or acting under any
38 judgment or order of any court, whether state or federal; or

39 (c) Public officers while performing their official
40 duties; or

41 (d) Persons disposing of motor vehicles acquired for
42 their own use and actually so used when the same shall have been
43 used, so acquired in good faith, and not for the purpose of
44 avoiding the provisions of this article; or

45 (e) Persons who shall sell motor vehicles as an
46 incident to their principal business but who are not engaged
47 primarily in selling motor vehicles. The foregoing shall include
48 only finance companies or banks which sell repossessed motor
49 vehicles, and insurance companies which sell motor vehicles which
50 they have taken into their possession as an incident of payment
51 made under policies of insurance, and which do not maintain a used
52 car lot or building with one (1) or more employed motor vehicle
53 salesmen.

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

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

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

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

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

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

92 (11) "Limited motor vehicle dealer" or "limited dealer"
93 shall mean any business engaged in the selling or exchanging of

94 new or used motor vehicles, or both, which buys and sells or
95 exchanges fewer than twenty-four (24) motor vehicles of the same
96 type per year and is granted a limited license at the discretion
97 of the Chairman of the State Tax Commission. Such limited dealer
98 shall be awarded all privileges of a "motor vehicle dealer,"
99 except for the purchase and use of distinguishing number tags. A
100 limited dealer shall abide by all provisions and requirements of
101 this article associated with a "motor vehicle dealer."

102 (12) "Wholesale motor vehicle dealer" or "wholesale dealer"
103 shall mean any business engaged in the selling or exchanging of
104 new or used motor vehicles, or both, strictly on a wholesale basis
105 with no inventory being maintained which is granted a wholesale
106 license at the discretion of the Chairman of the State Tax
107 Commission. Such wholesale dealer shall be awarded all privileges
108 of a "motor vehicle dealer," except for the purchase and use of
109 distinguishing number tags. A wholesale dealer shall abide by all
110 provisions and requirements of this article associated with a
111 "motor vehicle dealer," except for the requirement of the
112 "established place of business" and the requirement to buy, sell
113 or exchange at least twenty-four (24) motor vehicles of the same
114 type per year.

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