

By: Martinson

To: Ways and Means

HOUSE BILL NO. 585

1 AN ACT TO AMEND SECTION 27-19-303, MISSISSIPPI CODE OF 1972,
2 TO LOWER TO SIX THE NUMBER OF MOTOR VEHICLES THAT A BUSINESS MUST
3 BUY, SELL OR EXCHANGE PER YEAR IN ORDER TO FALL WITHIN THE
4 DEFINITION OF THE TERM "MOTOR VEHICLE DEALER" UNDER THE MOTOR
5 VEHICLE DEALER TAG PERMIT LAW; AND FOR 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 six (6) vehicles per year.

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

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

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

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

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

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

53 (5) "New motor vehicle dealer" shall mean a business dealing

54 in new motor vehicles, tractors, trailers or semitrailers, or new
55 and used motor vehicles, tractors, trailers or semitrailers.

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

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

79 (8) "Automobile dismantler" shall mean any person who
80 maintains an established place of business and who is engaged in
81 the business of buying, selling or exchanging used motor vehicles,

82 mobile homes or house trailers for the purpose of remodeling,
83 taking apart or rebuilding same or buying and selling of parts of
84 used motor vehicles and shall be classified as a used motor
85 vehicle dealer.

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

89 (10) "Motor vehicle comptroller" shall mean the Chairman of
90 the State Tax Commission, who shall be charged with the
91 administration and enforcement of this article.

92 (11) "Department" or "commission" shall mean the Chairman of
93 the State Tax Commission.

94 (12) "Limited motor vehicle dealer" or "limited dealer"
95 shall mean any business engaged in the selling or exchanging of
96 new or used motor vehicles, or both, which buys and sells or
97 exchanges fewer than six (6) vehicles and is granted a limited
98 license at the discretion of the Chairman of the State Tax
99 Commission. Such limited dealer shall be awarded all privileges
100 of a "motor vehicle dealer," except for the purchase and use of
101 distinguishing number tags. A limited dealer shall abide by all
102 provisions and requirements of this article associated with a
103 "motor vehicle dealer."

104 (13) "Wholesale motor vehicle dealer" or "wholesale dealer"
105 shall mean any business engaged in the selling or exchanging of
106 new or used motor vehicles, or both, strictly on a wholesale basis
107 with no inventory being maintained which is granted a wholesale
108 license at the discretion of the Chairman of the State Tax
109 Commission. Such wholesale dealer shall be awarded all privileges

110 of a "motor vehicle dealer," except for the purchase and use of
111 distinguishing number tags. A wholesale dealer shall abide by all
112 provisions and requirements of this article associated with a
113 "motor vehicle dealer," except for the requirement of the
114 "established place of business" and the requirement to buy, sell
115 or exchange at least six (6) motor vehicles per year.

116 SECTION 2. This act shall take effect and be in force from
117 and after July 1, 2000.