

By: Senator(s) Kirby

To: Finance

SENATE BILL NO. 2808

1 AN ACT TO PROVIDE EDUCATIONAL REQUIREMENTS FOR THE ISSUANCE
2 AND RENEWAL OF LICENSES OF MOTOR VEHICLE DEALERS; TO AMEND SECTION
3 63-17-85, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT FAILURE TO
4 COMPLY WITH THE EDUCATIONAL REQUIREMENTS SHALL BE GROUNDS FOR THE
5 DENIAL, REVOCATION OR SUSPENSION OF LICENSE; AND FOR RELATED
6 PURPOSES.

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

8 **SECTION 1.** (1) Beginning July 1, 2005, every application
9 for the issuance or renewal of a used motor vehicle dealer's
10 license shall be accompanied by, or supported by, such evidence as
11 the commission shall prescribe, documenting the completion of an
12 education seminar, approved by the commission, during the
13 twelve-month period immediately preceding the date of application.
14 Completion of an eight-hour licensing course shall be required for
15 an initial license and completion of a four-hour continuing
16 education course shall be required for the renewal of a license.
17 The education requirements of this section shall not apply to a
18 used motor vehicle dealer the primary business of which is the
19 sale of salvage vehicles on behalf of insurers or to a
20 manufactured home dealer. The education requirements of this
21 section shall not apply to persons age sixty-two (62) years or
22 older on or before July 1, 2005, who are seeking a renewal
23 license.

24 (2) In the discretion of the commission, the commission may
25 grant prior approval to any of the following types of educational
26 activities to meet continuing education requirements:

- 27 (a) The commission approved seminar(s);
- 28 (b) National or state automobile association sponsored
29 seminars, courses of instruction, or meetings;

30 (c) Courses related to used motor vehicles at any state
31 certified institution of higher learning;

32 (d) Seminars or courses related to used cars sponsored
33 or participated in by any state or federal agency;

34 (e) Any other seminar, course, or meeting which the
35 commission deems to be appropriately related to the used car
36 business.

37 (3) Requests for approval of any continuing educational
38 activity shall be submitted to the commission before the date of
39 attendance, and shall include a complete and specific description
40 of the educational activity, a description of how it will benefit
41 licensees in conducting their businesses, the number of hours
42 involved, a description of the method which will be used to ensure
43 attendance, and copies of any instructional materials which will
44 be provided to attendees. At the time approval is granted, the
45 commission shall determine how many hours of continuing education
46 a licensee may receive by attending the program. At any time the
47 commission deems that a previously approved educational activity
48 is not meeting the requirements for continuing education, it may
49 revoke the approval of the activity.

50 **SECTION 2.** Section 63-17-85, Mississippi Code of 1972, is
51 amended as follows:

52 63-17-85. The commission may deny an application for a
53 license, or revoke or suspend a license after it has been granted,
54 for any of the following reasons:

55 (a) On satisfactory proof of unfitness of the applicant
56 or the licensee, as the case may be, under the standards
57 established and set out in the Mississippi Motor Vehicle
58 Commission Law.

59 (b) For fraud practiced or any material misstatement
60 made by an applicant in any application for license under the
61 provisions of Section 63-17-75.

62 (c) For any willful failure to comply with any
63 provision of said law or with any rule or regulation promulgated
64 by the commission under authority vested in it by said law.

65 (d) Change of condition after license is granted or
66 failure to maintain the qualifications for license.

67 (e) Continued or flagrant violation of any of the
68 provisions of said law or of any of the rules or regulations of
69 the commission.

70 (f) For any willful violation of any law relating to
71 the sale, distribution or financing of motor vehicles.

72 (g) Willfully defrauding any retail buyer to the
73 buyer's damage.

74 (h) Willful failure to perform any written agreement
75 with any retail buyer.

76 (i) Being a manufacturer who, for the protection of the
77 buying public, fails to specify the delivery and preparation
78 obligations of its motor vehicle dealers prior to delivery of new
79 motor vehicles to retail buyers. A copy of the delivery and
80 preparation obligations of its motor vehicle dealers and a
81 schedule of the compensation to be paid to its motor vehicle
82 dealers for the work and services they shall be required to
83 perform in connection with such delivery and preparation
84 obligations shall be filed with the commission by every licensed
85 motor vehicle manufacturer and shall constitute any such dealer's
86 only responsibility for product liability as between such dealer
87 and such manufacturer. The compensation as set forth on said
88 schedule shall be reasonable and the reasonableness thereof shall
89 be subject to the approval of the commission. Any mechanical,
90 body or parts defects arising from any express or implied
91 warranties of any such manufacturer shall constitute such
92 manufacturer's product or warranty liability.

93 (j) On satisfactory proof that any manufacturer,
94 distributor, wholesaler, distributor branch or division, factory

95 branch or division, or wholesaler branch or division has unfairly
96 and without due regard to the equities of the parties or to the
97 detriment of the public welfare failed to properly fulfill any
98 warranty agreement or to adequately and fairly compensate any of
99 its motor vehicle dealers for labor, parts and/or incidental
100 expenses incurred by any such dealer with regard to factory
101 warranty agreements performed by any such dealer. In no event
102 shall any such manufacturer, distributor, wholesaler, distributor
103 branch or division, factory branch or division, or wholesaler
104 branch or division pay to any of its motor vehicle dealers a labor
105 rate per hour for warranty work less than that charged by any such
106 dealer to its retail customers. No such dealer shall charge to
107 its manufacturer, distributor, wholesaler, distributor branch or
108 division, factory branch or division, or wholesaler branch or
109 division, a labor rate per hour in excess of the rate charged to
110 its retail customers. All claims made by motor vehicle dealers
111 hereunder for such labor, parts and/or incidental expenses shall
112 be paid within thirty (30) days following their approval. All
113 such claims shall be either approved or disapproved within thirty
114 (30) days after their receipt, and when any such claim is
115 disapproved the motor vehicle dealer who submits it shall be
116 notified in writing of its disapproval within said period, and
117 each such notice shall state the specific grounds upon which the
118 disapproval is based.

119 (k) For the commission of any act prohibited by
120 Sections 63-17-73 through 63-17-83 or the failure to perform any
121 of the requirements of said sections.

122 (l) For failure to comply with the educational
123 requirements provided by Section 1 of Senate Bill No. 2808, 2005
124 Regular Session.

125 If the commission finds, after notice and hearing in the
126 manner provided for under the Mississippi Motor Vehicle Commission
127 Law, that there is sufficient cause upon which to base the

128 revocation of the license of any licensee involved in the hearing,
129 the commission may in lieu of revoking such license assess a civil
130 penalty against the guilty licensee not to exceed Ten Thousand
131 Dollars (\$10,000.00). If the commission finds, after such notice
132 and hearing, that sufficient cause exists for the suspension only
133 of the license of any licensee, the commission may in lieu of
134 suspending such license assess a civil penalty against the guilty
135 licensee of not less than Fifty Dollars (\$50.00) nor more than
136 Five Hundred Dollars (\$500.00) per day for each day such license
137 would otherwise be suspended. However, the amount of such penalty
138 shall not exceed an aggregate of Seven Thousand Five Hundred
139 Dollars (\$7,500.00). Failure of the licensee to pay all penalties
140 so assessed within the time allowed by the commission for the
141 payment thereof, which time shall in no case exceed ninety (90)
142 days from the date of the commission's order making such
143 assessment, shall, unless an appeal is taken and perfected within
144 the time and in the manner provided by the Mississippi Motor
145 Vehicle Commission Law, result in an automatic revocation of such
146 licensee's license. Any such penalties assessed by the commission
147 remaining unpaid at the expiration of the time for payment may be
148 recovered by an action in the name of the commission. All such
149 actions shall be brought by the Attorney General of the State of
150 Mississippi upon the written request of the commission to do so,
151 and shall be brought in the chancery court of the county or the
152 chancery court of the judicial district of the county to which the
153 commission's order making such assessment is appealable under the
154 provisions of Section 63-17-99. All civil penalties assessed and
155 collected by the commission under the authority of this subsection
156 shall be deposited in the General Fund of the State Treasury.

157 **SECTION 3.** This act shall take effect and be in force from
158 and after July 1, 2005.