

By: Representative Sullivan

To: Ways and Means

HOUSE BILL NO. 1000
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 63-21-13, MISSISSIPPI CODE OF 1972,
2 TO ALLOW WHOLESALE MOTOR VEHICLE DEALERS TO BE DESIGNATED AGENTS,
3 OF THE DEPARTMENT OF REVENUE FOR PURPOSES OF THE MISSISSIPPI MOTOR
4 VEHICLE AND MANUFACTURED HOUSING TITLE LAW; TO AMEND SECTION
5 27-19-303, MISSISSIPPI CODE OF 1972, TO ALLOW WHOLESALE MOTOR
6 VEHICLE DEALERS TO PURCHASE AND USE DISTINGUISHING TAGS; TO AMEND
7 SECTION 63-17-75, MISSISSIPPI CODE OF 1972, TO REQUIRE USED AND
8 WHOLESALE MOTOR VEHICLE DEALERS TO SUBMIT A BOND WITH LICENSE
9 APPLICATION, AND TO REQUIRE NEW, USED AND WHOLESALE MOTOR VEHICLE
10 DEALERS TO PURCHASE BLANKET LIABILITY INSURANCE; AND FOR RELATED
11 PURPOSES.

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

13 **SECTION 1.** Section 63-21-13, Mississippi Code of 1972, is
14 amended as follows:

15 63-21-13. (1) The tax collector of each of the several
16 counties in this state shall by virtue of his office be a
17 designated agent of the * * * Department of Revenue. Such tax
18 collectors may perform their duties under this chapter either
19 personally or through any of their deputies.

20 (2) Every licensed dealer as defined in this chapter
21 including wholesale dealers, shall be a designated agent of
22 the * * * Department of Revenue. Such dealers may perform their



23 duties under this chapter either personally or through any of
24 their officers or employees. Such dealers or persons shall enter
25 into a bond with a surety company authorized to do business in
26 this state as surety thereon, payable to the State of Mississippi
27 in a sum to be determined by the * * * department, but in no case
28 to be less than Fifteen Thousand Dollars (\$15,000.00), conditioned
29 for the faithful performance of their duties under this chapter.

30 (3) The * * * Department of Revenue may appoint persons
31 other than licensed dealers as its designated agents, provided
32 that such appointees shall enter into a bond with a surety company
33 authorized to do business in this state as surety thereon, payable
34 to the State of Mississippi in a sum to be determined by the
35 commission, but in no case to be less than Five Thousand Dollars
36 (\$5,000.00), conditioned for the faithful performance of their
37 duties under this chapter.

38 **SECTION 2.** Section 27-19-303, Mississippi Code of 1972, is
39 amended as follows:

40 27-19-303. The following words and phrases, when used in
41 this article, shall for purposes thereof have the meaning
42 respectively ascribed thereto as follows:

43 (a) "Motor vehicle" shall mean every vehicle intended
44 primarily for use and operation on the public highways, which is
45 self-propelled and every vehicle intended primarily for operation
46 on the public highways, which is not driven or propelled by its
47 own power, but which is designed either to be attached to and



48 become a part of or to be drawn by a self-propelled vehicle, but
49 not including farm tractors and other machines and tools used in
50 production, harvesting and care of farm products.

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

53 (c) "Motor vehicle dealer" shall mean any business
54 engaged in the selling or exchanging of new or new and used motor
55 vehicles or used vehicles; and, which has an established place of
56 business open for inspection at any time by any peace officer or
57 the Commissioner of Revenue of the Department of Revenue or one
58 (1) of his authorized representatives during reasonable hours;
59 and, which buys and sells or exchanges at least twenty-four (24)
60 motor vehicles per year that are the same motor vehicle type for
61 which distinguishing number tags are being sought under this
62 article. For purposes of this paragraph, each of the following
63 categories shall be considered a different motor vehicle type:

64 (i) Motor vehicles (as defined under Section
65 27-19-3) with a gross vehicle weight (as defined under Section
66 27-19-3) of less than sixteen thousand (16,000) pounds, not
67 including motorcycles;

68 (ii) Motorcycles;

69 (iii) Trailers, semitrailers and house trailers;

70 and

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



73 (d) "Dealer" shall mean such of the principal officers
74 of a corporation registered as a motor vehicle dealer, and such of
75 the partners of a copartnership registered as a motor vehicle
76 dealer as are actively and principally engaged in the motor
77 vehicle business. The term "dealer" shall not include:

78 (i) Directors, stockholders or inactive partners;
79 or

80 (ii) Receivers, trustees, administrators,
81 executors, guardians, or other persons appointed by or acting
82 under any judgment or order of any court, whether state or
83 federal; or

84 (iii) Public officers while performing their
85 official duties; or

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

90 (v) Persons who shall sell motor vehicles as an
91 incident to their principal business but who are not engaged
92 primarily in selling motor vehicles. The foregoing shall include
93 only finance companies or banks which sell repossessed motor
94 vehicles, and insurance companies which sell motor vehicles which
95 they have taken into their possession as an incident of payment
96 made under policies of insurance, and which do not maintain a used



97 car lot or building with one or more employed motor vehicle
98 salesmen.

99 (e) "New motor vehicle dealer" shall mean a business
100 dealing in new motor vehicles, tractors, trailers or semitrailers,
101 or new and used motor vehicles, tractors, trailers or
102 semitrailers.

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

107 (g) "Established place of business" shall mean any
108 place owned or leased and regularly occupied by any person for the
109 primary and principal purpose of engaging in selling, buying,
110 bartering, exchanging or dealing in motor vehicles, tractors,
111 trailers or semitrailers, whether same may be displayed or offered
112 for sale and where the books and records required of the conduct
113 of such business are maintained and kept. Established places of
114 business shall be open for inspection at any time by any peace
115 officer or employee of the Department of Revenue during reasonable
116 hours. To constitute a place of business, it shall be apparent
117 that there is a holding out to the general public that an
118 establishment is offering motor vehicles, tractors, trailers and
119 semitrailers for sale. There shall be an office separate from and
120 not in conjunction with or related to any other business for the
121 purpose of transacting the business of offering motor vehicles,



122 tractors, trailers or semitrailers for sale, or in lieu of such
123 office there shall be an adequate display of identification as a
124 motor vehicle dealer as specified by the Commissioner of Revenue
125 of the Department of Revenue.

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

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

136 (j) "Department" or "commission" shall mean the
137 Commissioner of Revenue of the Department of Revenue.

138 (k) "Limited motor vehicle dealer" or "limited dealer"
139 shall mean any business engaged in the selling or exchanging of
140 new or used motor vehicles, or both, which buys and sells or
141 exchanges fewer than the number of motor vehicles required to be
142 sold or exchanged in order to fall within the definition of the
143 term "motor vehicle dealer" and is granted a limited license at
144 the discretion of the Commissioner of Revenue of the Department of
145 Revenue. Such limited dealer shall be awarded all privileges of a
146 "motor vehicle dealer," except for the purchase and use of



147 distinguishing number tags. A limited dealer shall abide by all
148 provisions and requirements of this article associated with a
149 "motor vehicle dealer."

150 (1) "Wholesale motor vehicle dealer" or "wholesale
151 dealer" shall mean any business engaged in the selling or
152 exchanging of new or used motor vehicles, or both, strictly on a
153 wholesale basis with no inventory being maintained which is
154 granted a wholesale license at the discretion of the Commissioner
155 of Revenue of the Department of Revenue. Such wholesale dealer
156 shall be awarded all privileges of a "motor vehicle
157 dealer * * *." * * * A wholesale dealer shall abide by all
158 provisions and requirements of this article associated with a
159 "motor vehicle dealer," except for the requirement of the
160 "established place of business" and the requirement to buy, sell
161 or exchange a certain number of motor vehicles per year.

162 **SECTION 3.** Section 63-17-75, Mississippi Code of 1972, is
163 amended as follows:

164 63-17-75. Within ninety (90) days after July 1, 1970, all
165 persons who on July 1, 1970, are engaged in a business or
166 occupation for which a license is required under the Mississippi
167 Motor Vehicle Commission Law shall make application on forms
168 prescribed by the commission for their respective licenses. All
169 such persons shall be permitted, without a license, to continue to
170 engage in the business or occupation for which a license is
171 applied for until the license is either granted or, in case it is



172 denied, until the applicant has exhausted or has had an
173 opportunity to exhaust all of his remedies under Section 63-17-99.
174 No person not engaged in a business or occupation requiring such a
175 license on July 1, 1970, shall be permitted to engage in such
176 business or occupation until he shall have first obtained a
177 license to engage in such business or occupation.

178 Applications for licenses shall be verified by the oath or
179 affirmation of the applicants and shall be on forms prescribed by
180 the commission and furnished to such applicants. Applications
181 shall contain such information as the commission deems necessary
182 to enable it to fully determine the qualifications and eligibility
183 of the several applicants to receive the license or licenses
184 applied for. The commission shall require that there be set forth
185 in each application information relating to the applicant's
186 financial standing, the applicant's business integrity, whether
187 the applicant has an established place of business and is
188 primarily engaged in the pursuit, avocation or business for which
189 a license or licenses is applied for, and whether the applicant is
190 able to properly conduct the business for which a license or
191 licenses is applied for, and such other pertinent information
192 consistent with the safeguarding of the public interest and public
193 welfare. Applications for license as a motor vehicle dealer
194 shall, in addition to the foregoing, be accompanied by the filing
195 with the commission of a bona fide contract or franchise then in
196 effect between the applicant and a manufacturer, distributor or



197 wholesaler of the new motor vehicle or vehicles proposed to be
198 dealt in, unless such contract or franchise has already been filed
199 with the commission in connection with a previous application made
200 by such applicant, in which event the applicant shall, in lieu of
201 again filing the contract or franchise, identify the contract or
202 franchise by appropriate reference and file all revisions and
203 additions, if any, which have been made to said contract or
204 franchise. The applicant must furnish satisfactory evidence that
205 he or it maintains adequate space in the building or structure
206 wherein his or its established business is conducted for the
207 display of new motor vehicles, or he will have such facilities
208 within a reasonable time after receiving a license, and that he or
209 it has or will have adequate facilities in said building or
210 structure for the repair and servicing of motor vehicles and the
211 storage of new parts and accessories for same. However, the
212 failure to furnish the evidence called for in the preceding
213 sentence shall not constitute sufficient cause for denying a
214 license to any motor vehicle dealer who on July 1, 1970, was an
215 enfranchised new motor vehicle dealer in this state of a
216 manufacturer, distributor or wholesaler of new motor vehicles and
217 who continued to be such a dealer from such date until application
218 was made for a license as a motor vehicle dealer.

219 New applications for licenses as a new, used or wholesale
220 motor vehicle dealer shall, in addition to the foregoing, be
221 accompanied by the filing with the commission of a corporate



222 surety bond in the penal sum of Twenty-five Thousand Dollars
223 (\$25,000.00) on a bond form approved by the commission. However,
224 an applicant for licenses at multiple locations may choose to
225 provide a corporate surety bond in the penal sum of One Hundred
226 Thousand Dollars (\$100,000.00) covering all licensed locations of
227 the same capacity in lieu of separate bonds for each location.

228 The bond shall be in effect upon the applicant being licensed
229 and shall be conditioned upon his complying with the provisions of
230 the Mississippi Motor Vehicle Commission Law. The bond shall be
231 an indemnity for any loss sustained by any person by reason of the
232 acts of the person bonded when those acts constitute grounds for
233 the suspension or revocation of license. The bond shall be
234 executed in the name of the State of Mississippi for the benefit
235 of any aggrieved party. The aggregate liability of the surety for
236 any claimants, regardless of the number of years this bond is in
237 force or has been in effect, shall not exceed the amount of the
238 bond. The proceeds of the bond shall be paid upon receipt by the
239 commission of a final judgment from a Mississippi court of
240 competent jurisdiction against the principal and in favor of an
241 aggrieved party.

242 New, used and wholesale motor vehicle dealers shall be
243 required to maintain motor vehicle liability insurance providing
244 blanket coverage on vehicles operated on the public streets and
245 highways of this state, including vehicles in dealership
246 inventory. Evidence of liability insurance for business and



247 inventory vehicles shall be filed with the application for
248 license, and the application for license shall be denied if proof
249 of liability insurance satisfactory to the Department of Revenue
250 is not provided.

251 **SECTION 4.** This act shall take effect and be in force from
252 and after July 1, 2015.

