

# HOUSE BILL No. 5292

November 15, 1989, Introduced by Reps. Emmons, Hertel, Ouwinga, Bandstra, Martin, Walberg, DeMars, Wartner, Law, Hoffman, Giese, Bender, Dunaskiss, Camp, Munsell, Strand, Bankes, Crandall, DeBeaussaert, Kosteva, Jonker, Pitoniak, Muxlow, Hoekman, Sikkema, London, Stopczynski, Gilmer, Dolan, Jaye, Randall and Middaugh and referred to the Committee on Transportation.

A bill to amend sections 56b and 248 of Act No. 300 of the Public Acts of 1949, entitled as amended

"Michigan vehicle code,"

section 56b as added and section 248 as amended by Act No. 255 of the Public Acts of 1988, being sections 257.56b and 257.248 of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Section 1. Sections 56b and 248 of Act No. 300 of the  
2 Public Acts of 1949, section 56b as added and section 248 as  
3 amended by Act No. 255 of the Public Acts of 1988, being sections  
4 257.56b and 257.248 of the Michigan Compiled Laws, are amended to  
5 read as follows:

6       Sec. 56b. (1) "Salvageable part" means a major component  
7 part of a late model vehicle or a vehicle manufactured in the  
8 current model year, if the part is serviceable to the extent that

1 it can be reused OR IF THE PART MAY BE REUSED WITHOUT BEING  
2 REMANUFACTURED. ENGINE CORES OR TRANSMISSIONS WHICH MAY ONLY BE  
3 REUSED AFTER BEING REMANUFACTURED SHALL NOT BE CONSIDERED SAL-  
4 VAGEABLE PARTS FOR THE PURPOSE OF THIS ACT.

5 (2) This section is repealed effective January 1, 1993.

6 Sec. 248. (1) A person shall not carry on or conduct the  
7 business of buying, selling, brokering, or dealing in vehicles of  
8 a type required to be titled under this act unless the person  
9 obtains a dealer license from the secretary of state authorizing  
10 the carrying on or conducting of that business. Until January 1,  
11 1993, a person shall not carry on or conduct the business of  
12 buying, selling, brokering, or dealing in distressed late model  
13 motor vehicles or salvageable parts, unless the person obtains a  
14 used or secondhand vehicle parts dealer license from the secre-  
15 tary of state or is an insurance company admitted to conduct  
16 business in this state, except that a motor vehicle repair facil-  
17 ity registered under the motor vehicle service and repair act,  
18 Act No. 300 of the Public Acts of 1974, being sections 257.1301  
19 to 257.1340 of the Michigan Compiled Laws, may purchase salvagea-  
20 ble parts and salvage vehicles for the purposes of using acquired  
21 parts and vehicles in the repair of other vehicles. A PERSON WHO  
22 CONDUCTS THE BUSINESS OF PURCHASING, SELLING, WAREHOUSING, OR  
23 OTHERWISE DEALING IN REMANUFACTURED PARTS SHALL NOT BE REQUIRED  
24 TO OBTAIN A USED OR SECONDHAND VEHICLE PARTS DEALER LICENSE. A  
25 person shall not carry on or conduct the business of buying vehi-  
26 cles to process into scrap metal or store or display vehicles as  
27 an agent or escrow agent of an insurance company, unless the

1 person obtains a dealer license from the secretary of state. A  
2 vehicle scrap metal processor who does not purchase vehicles from  
3 unlicensed persons shall not be required to obtain a dealer  
4 license. Until January 1, 1993, a person from another state  
5 shall not purchase, sell, or otherwise deal in distressed, late  
6 model motor vehicles, unless the person obtains a foreign salvage  
7 vehicle dealer license from the secretary of state as prescribed  
8 under section 248b. The secretary of state shall investigate and  
9 seek prosecution, if necessary, of persons allegedly conducting a  
10 business without a license.

11 (2) The application for a dealer license shall be in the  
12 form prescribed by the secretary of state and shall be signed by  
13 the applicant. In addition to other information as may be  
14 required by the secretary of state, the application shall include  
15 all of the following:

16 (a) Name of applicant.

17 (b) Location of applicant's established place of business in  
18 this state.

19 (c) The name under which business is to be conducted.

20 (d) If the business is a corporation, the state of  
21 incorporation.

22 (e) Name and address of each owner or partner and, if a cor-  
23 poration, the name of the principal officers.

24 (f) The county in which the business is to be conducted and  
25 the address of each place of business in that county.

26 (g) If new vehicles are to be sold, the make to be handled.

27 Each new vehicle dealer shall send with the application for

1 license a certification that the dealer holds a bona fide  
2 contract to act as factory representative, factory distributor,  
3 or distributor representative to sell at retail ..... the  
4 make of vehicle to be sold.

5 (h) A statement of the previous history, record, and associ-  
6 ations of the applicant and of each owner, partner, officer, and  
7 director, which statement shall be sufficient to establish to the  
8 satisfaction of the secretary of state the business reputation  
9 and character of the applicant.

10 (i) A statement showing whether the applicant has previously  
11 applied for a license, the result of the application, and whether  
12 the applicant has ever been the holder of a dealer license which  
13 was revoked or suspended.

14 (j) If the applicant is a corporation or partnership, a  
15 statement showing whether a partner, employee, officer, or direc-  
16 tor has been refused a license or has been the holder of a  
17 license which was revoked or suspended.

18 (k) Until January 1, 1993, if the application is for a used  
19 or secondhand vehicle parts dealer, both of the following:

20 (i) Evidence that the applicant maintains or will maintain  
21 an established place of business.

22 (ii) Evidence that the applicant maintains or will maintain  
23 a police book and vehicle parts purchase and sales records as  
24 required under this act.

25 (iii) Evidence of worker's compensation insurance coverage  
26 for employees classified under the standard industrial  
27 classification number 4015, entitled "motor vehicle parts --

1 used" or under the national council on compensation insurance  
2 code number 3821, entitled "automobile dismantling", if  
3 applicable.

4       (3) A person shall make a separate application for a dealer  
5 license for each county in which business is to be conducted and  
6 a dealer, before moving 1 or more of his or her places of busi-  
7 ness, or opening an additional place of business, shall apply to  
8 the secretary of state for and obtain a supplemental dealer  
9 license, for which a fee shall not be charged. The supplemental  
10 dealer license shall entitle the dealer to conduct in the county  
11 covered by the license the business of buying, selling, and deal-  
12 ing in vehicles. Until January 1, 1993, this subsection shall  
13 not apply to a person licensed as a foreign salvage vehicle  
14 dealer under section 248b.

15       (4) The secretary of state may divide the calendar year into  
16 quarters and the total number of dealer licensees into approxi-  
17 mately convenient quarter segments. Each dealer license granted  
18 under subsection (1) shall expire on the last day of the month in  
19 the quarter for the business year in which the license was  
20 issued, and may be renewed upon application and payment of the  
21 fee required by section 807.

22       (5) A license shall not be granted until an investigation is  
23 made of the applicant's qualifications under this act, except  
24 that this subsection shall not apply to license renewals. The  
25 secretary of state shall make the investigation within 15 days  
26 after receiving the application and make a report on the  
27 investigation.

1       (6) The secretary of state shall classify and differentiate  
2 vehicle dealers according to the type of activity they perform.  
3 A dealer shall not engage in activities of a particular classifi-  
4 cation as provided in this act, unless the dealer is licensed in  
5 that classification. An applicant may apply for a dealer license  
6 in 1 or more of the following classifications:

- 7       (a) New vehicle dealer.
- 8       (b) Used or secondhand vehicle dealer.
- 9       (c) Used or secondhand vehicle parts dealer.
- 10      (d) Vehicle scrap metal processor.
- 11      (e) Vehicle salvage pool operator.
- 12      (f) Distressed vehicle transporter.
- 13      (g) Broker.
- 14      (h) Until January 1, 1993, a foreign salvage vehicle  
15 dealer.

16       (7) An applicant for a new vehicle dealer or a used or sec-  
17 ondhand vehicle dealer or broker license shall accompany the  
18 application with a properly executed bond or renewal  
19 certificate. If a renewal certificate is used, the bond shall be  
20 considered as renewed for each succeeding year in the same amount  
21 and with the same effect as an original bond. The bond shall be  
22 in the sum of \$10,000.00 with good and sufficient surety to be  
23 approved by the secretary of state. The bond shall be condi-  
24 tioned to indemnify or reimburse a purchaser, seller, financing  
25 agency, or governmental agency for monetary loss caused through  
26 fraud, cheating, or misrepresentation in the conduct of the  
27 vehicle business, whether the fraud, cheating, or

1 misrepresentation was made by the dealer or by an employee,  
2 agent, or salesperson of the dealer. The surety shall be  
3 required to make indemnification or reimbursement for a monetary  
4 loss only after judgment based on fraud, cheating, or misrepre-  
5 sentation has been entered in a court of record against the  
6 licensee. The bond shall also be conditioned to indemnify or  
7 reimburse the state for any sales tax deficiency as provided in  
8 the general sales tax act, Act No. 167 of the Public Acts of  
9 1933, as amended, being sections 205.51 to 205.78 of the Michigan  
10 Compiled Laws, or use tax deficiency as provided in the use tax  
11 act, Act No. 94 of the Public Acts of 1937, as amended, being  
12 sections 205.91 to 205.111 of the Michigan Compiled Laws, for the  
13 year in which the bond was in force. The surety shall be  
14 required to make indemnification or reimbursement only after  
15 final judgment has been entered in a court of record against the  
16 licensee. A dealer or applicant who has furnished satisfactory  
17 proof that a bond similar to the bond required by this subsection  
18 is executed and in force shall be exempt from the bond provisions  
19 set forth in this subsection. The aggregate liability of the  
20 surety shall not exceed the sum of the bond. The surety on the  
21 bond may cancel the bond upon giving 30 days' notice in writing  
22 to the secretary of state and thereafter shall not be liable for  
23 a breach of condition occurring after the effective date of the  
24 cancellation.

25 (8) An applicant for a new vehicle dealer or a used or sec-  
26 ondhand vehicle dealer license shall accompany the application  
27 with an application for not less than 2 dealer plates as provided

1 by section 245, accompanied by the proper fee as provided by  
2 section 803.

3       (9) A dealer required to be licensed under this section, as  
4 a condition precedent to the granting of a license, shall file  
5 with the secretary of state, an irrevocable written stipulation,  
6 authenticated by the applicant, stipulating and agreeing that  
7 legal process affecting the dealer, served on the secretary of  
8 state or a deputy of the secretary of state, shall have the same  
9 effect as if personally served on the dealer. This appointment  
10 shall remain in force as long as any liability of the dealer  
11 remains outstanding within this state.