

SENATE BILL No. 1023

May 22, 2018, Introduced by Senators MACGREGOR and SCHMIDT and referred to the Committee on Commerce.

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending section 248 (MCL 257.248), as amended by 2016 PA 425, and by adding section 248/.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 248. (1) The secretary of state shall not grant a dealer
2 license under this section until the secretary conducts an
3 investigation of the applicant's qualifications under this act,
4 except that this subsection does not apply to a license renewal.
5 The secretary of state shall conduct the investigation within 15
6 days after receiving the application and prepare a report on the
7 investigation.

1 (2) An applicant for a new vehicle dealer or a used or
2 secondhand vehicle dealer or broker license shall include a
3 properly executed bond or a bond renewal certificate, approved by
4 the secretary of state, with the license application. If a renewal
5 certificate is used, the bond is considered renewed for each
6 succeeding year in the same amount and with the same effect as an
7 original bond. The bond shall be in the amount of \$10,000.00. The
8 bond shall indemnify or reimburse a purchaser, seller, lessee,
9 financing agency, or governmental agency for monetary loss caused
10 through fraud, cheating, or misrepresentation in the conduct of the
11 vehicle business whether the fraud, cheating, or misrepresentation
12 was made by the dealer or by an employee, agent, or salesperson of
13 the dealer. The surety shall make indemnification or reimbursement
14 for a monetary loss only after a judgment based on fraud, cheating,
15 or misrepresentation is entered in a court of record against the
16 licensee or a final order that the licensee has engaged in fraud,
17 cheating, or misrepresentation is issued by the secretary of state
18 after an administrative hearing. The bond shall also indemnify or
19 reimburse the state for any sales tax deficiency as provided in the
20 general sales tax act, 1933 PA 167, MCL 205.51 to 205.78, or use
21 tax deficiency as provided in the use tax act, 1937 PA 94, MCL
22 205.91 to 205.111, for the year in which the bond is in force. The
23 surety shall make indemnification or reimbursement only after a
24 final judgment is entered in a court of record against the licensee
25 or a final order is issued by the secretary of state after an
26 administrative hearing. A dealer or applicant that provides proof
27 that is satisfactory to the secretary of state that a bond similar

1 to the bond required by this subsection is executed and in force is
2 exempt from the bond requirements of this subsection. The aggregate
3 liability of the surety shall not exceed the sum of the bond. The
4 surety on the bond may cancel the bond by giving notice in writing
5 to the secretary of state of the cancellation at least 30 days
6 before the effective date of the cancellation and is not liable for
7 a breach of condition occurring after the effective date of the
8 cancellation.

9 (3) An applicant for a new vehicle dealer or a used or
10 secondhand vehicle dealer license shall apply for not less than 2
11 dealer plates under section 245 and shall include with the
12 application the proper fee for those plates under section 803.

13 (4) As a condition precedent to the granting of a license, a
14 dealer shall file with the secretary of state an irrevocable
15 written stipulation, authenticated by the applicant, stipulating
16 and agreeing that legal process affecting the dealer, served on the
17 secretary of state or a deputy of the secretary of state, has the
18 same effect as if personally served on the dealer. This appointment
19 remains in force as long as the dealer has any outstanding
20 liability within this state.

21 (5) A person shall not carry on or conduct the business of
22 buying, selling, brokering, leasing, negotiating a lease, or
23 dealing in 5 or more vehicles of a type required to be titled under
24 this act in a 12-month period unless the person obtains a dealer
25 license from the secretary of state authorizing the carrying on or
26 conducting of that business. A person shall not carry on or conduct
27 the business of buying, selling, brokering, leasing, negotiating a

1 lease, or dealing in 5 or more distressed, late model vehicles or
2 salvageable parts to 5 or more of those vehicles in a 12-month
3 period unless the person obtains a used or secondhand vehicle parts
4 dealer, an automotive recycler, or a salvage pool license from the
5 secretary of state or is an insurance company admitted to conduct
6 business in this state. A person shall not carry on or conduct the
7 business of buying 5 or more vehicles in a 12-month period to
8 process into scrap metal or store or display 5 or more vehicles in
9 a 12-month period as an agent or escrow agent of an insurance
10 company unless the person obtains a dealer license from the
11 secretary of state. A vehicle scrap metal processor that does not
12 purchase vehicles or salvageable parts from unlicensed persons is
13 not required to obtain a dealer license. A person from another
14 state shall not purchase, sell, or otherwise deal in distressed,
15 late model vehicles or salvageable parts unless the person obtains
16 a foreign salvage vehicle dealer license from the secretary of
17 state under section 248b. A person, including a dealer, shall not
18 purchase or acquire a distressed, late model vehicle or a
19 salvageable part through a salvage pool, auction, or broker without
20 a license as a salvage vehicle agent. The secretary of state shall
21 investigate and seek prosecution, if necessary, of persons
22 allegedly conducting a business without a license.

23 (6) The application for a dealer license shall be in the form
24 prescribed by the secretary of state and shall be signed by the
25 applicant. In addition to other information as may be required by
26 the secretary of state, the application shall include all of the
27 following:

1 (a) The name of the applicant.

2 (b) The location of the applicant's established place of
3 business in this state, together with written verification from the
4 appropriate governing or zoning authority that the established
5 place of business meets all applicable municipal and zoning
6 requirements.

7 (c) The name under which the dealer will conduct business.

8 (d) If the business is a corporation, the state of
9 incorporation.

10 (e) If the business is a sole proprietorship or partnership,
11 the name, address, and date of birth of each owner or partner; if
12 the business is a corporation, the name, address, and date of birth
13 of each of the principal officers.

14 (f) The county in which the applicant will conduct business
15 and the address of each place of business in that county.

16 (g) If the dealer's business is the sale of new vehicles, the
17 make or makes of those vehicles. Each new vehicle dealer shall send
18 with the application for license a certification that the dealer
19 holds a bona fide contract to act as factory representative,
20 factory distributor, or distributor representative to sell at
21 retail (the make of vehicle to be sold) and that the
22 contract meets the requirements for a dealer agreement under 1981
23 PA 118, MCL 445.1561 to 445.1583.

24 (h) A statement of the previous history, record, and
25 associations of the applicant and of each owner, partner, officer,
26 or director of the applicant. The statement shall be sufficient to
27 establish to the satisfaction of the secretary of state the

1 business reputation and character of the applicant.

2 (i) A statement showing whether the applicant has previously
3 applied for a license, the result of the application, and whether
4 the applicant has ever been the holder of a dealer license that was
5 revoked or suspended.

6 (j) If the applicant is a corporation or partnership, a
7 statement showing whether a partner, employee, officer, or director
8 has been refused a license or has been the holder of a license that
9 was revoked or suspended.

10 (k) If the application is for a used or secondhand vehicle
11 parts dealer or an automotive recycler, all of the following:

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

14 (ii) Evidence that the applicant maintains or will maintain a
15 police book and vehicle parts purchase and sales and lease records
16 as required under this act.

17 (iii) Evidence of worker's compensation insurance coverage for
18 employees classified under the North American industry
19 classification system number 42114, entitled "motor vehicle parts
20 (used) merchant wholesalers" or under the National Council on
21 Compensation Insurance classification code number 3821, entitled
22 "automobile dismantling", if applicable.

23 (l) A certification that neither the applicant nor another
24 person named on the application is acting as the alter ego of any
25 other person or persons in seeking the license. For the purpose of
26 this subdivision, "alter ego" means a person that acts for and on
27 behalf of, or in the place of, another person for purposes of

1 obtaining a vehicle dealer license.

2 (m) A certification that the applicant if the applicant is an
3 individual or sole proprietorship, the partners of the applicant if
4 the applicant is a partnership, the principal officers of the
5 applicant if the applicant is a corporation, or any other
6 individual who is responsible for the daily operations of the
7 dealership, as applicable, has reviewed and understands the
8 requirements of this act, the rules promulgated under this act, the
9 dealer manual published by the secretary of state, and any other
10 applicable material provided by the department.

11 (N) FOR AN APPLICATION SUBMITTED BY OR ON BEHALF OF AN
12 ELIGIBLE USED VEHICLE DEALER FOR AN ORIGINAL LICENSE, A
13 CERTIFICATION THAT WITHIN THE 6-MONTH PERIOD PRECEDING THE DATE OF
14 THE APPLICATION, THE APPLICANT, THE PARTNERS OF THE APPLICANT, OR
15 THE PRINCIPAL OFFICERS OF THE APPLICANT, AS APPLICABLE, COMPLETED
16 THE DEALER TRAINING PROGRAM DESCRIBED IN SECTION 248/(2). THIS
17 SUBDIVISION DOES NOT APPLY TO AN APPLICATION TO RENEW THE LICENSE
18 OF AN ELIGIBLE USED VEHICLE DEALER AND DOES NOT APPLY TO ANY
19 ORIGINAL LICENSE THAT WAS GRANTED TO AN ELIGIBLE USED VEHICLE
20 DEALER BEFORE, AND THAT IS VALID ON, THE EFFECTIVE DATE OF SECTION
21 248/. AS USED IN THIS SUBDIVISION AND SUBDIVISION (O), "ELIGIBLE
22 USED VEHICLE DEALER" MEANS THAT TERM AS DEFINED IN SECTION 248/.

23 (O) FOR AN APPLICATION SUBMITTED BY OR ON BEHALF OF AN
24 ELIGIBLE USED VEHICLE DEALER FOR AN ORIGINAL OR RENEWAL LICENSE, A
25 CERTIFICATION THAT EACH RETAIL SALES LOCATION OF THAT DEALER HAS AN
26 EMPLOYEE THAT HAS COMPLETED THE DEALER TRAINING PROGRAM REQUIRED
27 UNDER SECTION 248/(3) OR (5), AS APPLICABLE.

1 (7) A person shall apply separately for a dealer license for
2 each county in which business is to be conducted. Before moving 1
3 or more places of business or opening an additional place of
4 business, a dealer shall apply to the secretary of state for and
5 obtain a supplemental dealer license. The secretary of state shall
6 not charge a fee for a supplemental dealer license and shall issue
7 a supplemental dealer license only for a location, including a
8 tent, temporary stand, or any temporary quarters, that does not
9 meet the definition of an established place of business, within the
10 county in which the dealer's established place of business is
11 located. A dealer license entitles the dealer to conduct the
12 business of buying, selling, leasing, and dealing in vehicles or
13 salvageable parts in the county covered by the license. The dealer
14 license shall also entitle the dealer to conduct at any other
15 licensed dealer's established place of business in this state only
16 the business of buying, selling, leasing, or dealing in vehicles at
17 wholesale.

18 (8) The secretary of state shall classify and differentiate
19 vehicle dealers according to the type of activity they perform. A
20 dealer shall not engage in activities of a particular
21 classification as provided in this act unless the dealer is
22 licensed in that classification. An applicant may apply for a
23 dealer license in 1 or more of the following classifications:

24 (a) New vehicle dealer.

25 (b) Used or secondhand vehicle dealer. A used or secondhand
26 vehicle dealer may be eligible for a mobility dealer endorsement
27 under section 248k.

1 (c) Used or secondhand vehicle parts dealer.

2 (d) Vehicle scrap metal processor.

3 (e) Vehicle salvage pool operator.

4 (f) Distressed vehicle transporter.

5 (g) Broker.

6 (h) Foreign salvage vehicle dealer.

7 (i) Automotive recycler.

8 (j) Beginning April 1, 2005, wholesaler.

9 (9) All of the following apply to the issuance, renewal, and
10 expiration of a dealer license under this section:

11 (a) A dealer license ~~that is issued before the effective date~~
12 ~~of the amendatory act that added section 248k~~ expires on December
13 31 of the last year for which the license is issued. **VALID.**

14 (b) A dealer shall renew its dealer license annually. The
15 secretary of state may renew a dealer license for a period of not
16 more than 4 years if the secretary receives a renewal application
17 and payment of the fee required under section 807.

18 ~~— (c) An initial dealer license issued on or after the effective~~
19 ~~date of the amendatory act that added this subdivision expires 1~~
20 ~~year after the date the license is issued.~~

21 **(C)** ~~(d)~~—To renew a dealer license, the dealer shall file an
22 application for renewal with the secretary of state at least 30
23 days before the expiration of its current license.

24 **(D)** ~~(e)~~—If a dealer has not renewed its dealer license on or
25 before the expiration date of its current license, the secretary of
26 state within 10 business days after that expiration date must
27 notify the dealer that the secretary of state has not received its

1 renewal application. The notice shall include the amount of the
2 late renewal fee.

3 **(E)** ~~(f)~~—A dealer may continue to operate its dealer business
4 after the expiration of its dealer license, pending approval of the
5 renewal application, if the renewal application is delivered in
6 person or mailed to the secretary of state on or before the
7 expiration date of the license. If requested by the department, a
8 dealer that mails an application under this subdivision must
9 provide proof of mailing of the renewal application that is
10 satisfactory to the department.

11 **(F)** ~~(g)~~—If an application to renew a dealer license is filed
12 with the secretary of state after the expiration of that license,
13 the dealer may operate its dealer business beginning on the date on
14 which the application is delivered or mailed to the secretary of
15 state, pending approval of the renewal application. If requested by
16 the department, a dealer that mails an application under this
17 subdivision must provide proof of mailing of the renewal
18 application that is satisfactory to the department. A dealer shall
19 pay a renewal fee equal to 150% of the normal renewal fee for a
20 renewal described in this subdivision.

21 **(G)** ~~(h)~~—If a dealer files an application to renew a dealer
22 license more than 30 days after the expiration of that license, the
23 dealer is considered a new applicant for a dealer license under
24 this section.

25 **(H)** ~~(i)~~—The secretary of state shall deposit the late renewal
26 fees collected under subdivisions ~~(e)~~ **(D)** and ~~(g)~~ **(F)** in the
27 transportation administration collection fund created in section

1 810b.

2 (10) A dealer may conduct the business of buying, selling, or
3 dealing in motor homes, trailer coaches, trailers, or pickup
4 campers at a recreational vehicle show conducted at a location in
5 this state without obtaining a separate or supplemental license
6 under subsection (7) if all of the following apply:

7 (a) The dealer is licensed as a new vehicle dealer or used or
8 secondhand vehicle dealer.

9 (b) The duration of the recreational vehicle show is not more
10 than 14 days.

11 (c) Not less than 14 days before the beginning date of the
12 recreational vehicle show, the show producer notifies the secretary
13 of state, in a manner and form prescribed by the secretary of
14 state, that the recreational vehicle show is scheduled, the
15 location, dates, and times of the recreational vehicle show, and
16 the name, address, and dealer license number of each dealer
17 participating in the recreational vehicle show.

18 **SEC. 248/. (1) THE SECRETARY OF STATE SHALL ESTABLISH EACH OF**
19 **THE FOLLOWING DEALER TRAINING PROGRAMS FOR ELIGIBLE USED VEHICLE**
20 **DEALERS:**

21 **(A) A PRELICENSURE DEALER TRAINING PROGRAM THAT MEETS ALL OF**
22 **THE FOLLOWING:**

23 **(i) IS CONDUCTED BY THE DEPARTMENT, OR A QUALIFIED TRADE**
24 **ORGANIZATION APPROVED BY THE DEPARTMENT, AND IS OFFERED AT LEAST 2**
25 **TIMES EACH CALENDAR QUARTER. IF APPROVED BY THE DEPARTMENT, THE**
26 **TRAINING PROGRAM MAY BE CONDUCTED ONLINE OR BY OTHER ELECTRONIC**
27 **MEANS.**

1 (ii) IS AVAILABLE TO ANY INDIVIDUAL WHO IS AN ELIGIBLE USED
2 VEHICLE DEALER WHO IS APPLYING FOR AN ORIGINAL DEALER LICENSE OR IS
3 A PARTNER OR OFFICER OF AN ELIGIBLE USED VEHICLE DEALER THAT IS
4 APPLYING FOR AN ORIGINAL DEALER LICENSE.

5 (iii) INCLUDES TRAINING RELATED TO THIS ACT AND ANY OTHER
6 SUBJECT MATTER APPROVED BY THE SECRETARY OF STATE, SUCH AS CONSUMER
7 PROTECTION AND SALES AND USE TAX COLLECTION. THE DEPARTMENT MAY
8 CONSULT WITH ANY OTHER DEPARTMENTS TO EVALUATE AND APPROVE COURSE
9 CONTENT IT CONSIDERS APPROPRIATE.

10 (B) A TRAINING PROGRAM FOR DESIGNATED INDIVIDUALS THAT MEETS
11 ALL OF THE FOLLOWING:

12 (i) IS CONDUCTED BY THE DEPARTMENT OR ANOTHER PERSON
13 DESIGNATED BY THE SECRETARY OF STATE AND IS OFFERED AT LEAST 2
14 TIMES EACH CALENDAR QUARTER. IF APPROVED BY THE DEPARTMENT, THE
15 TRAINING PROGRAM MAY BE CONDUCTED ONLINE OR BY OTHER ELECTRONIC
16 MEANS.

17 (ii) IS AVAILABLE TO ANY DESIGNATED INDIVIDUAL.

18 (iii) INCLUDES TRAINING IN TRANSFERRING VEHICLE TITLES,
19 DOCUMENTATION OF TITLE TRANSFERS, RECORD KEEPING, AND ANY OTHER
20 SUBJECT MATTER APPROVED BY THE SECRETARY OF STATE, SUCH AS CONSUMER
21 PROTECTION AND SALES AND USE TAX COLLECTION.

22 (C) A CONTINUING EDUCATION TRAINING PROGRAM THAT MEETS ALL OF
23 THE FOLLOWING:

24 (i) IS CONDUCTED AT LEAST 2 TIMES IN EACH CALENDAR QUARTER.

25 (ii) INCLUDES AT LEAST 2 HOURS OF TRAINING.

26 (iii) INCLUDES SUBJECT MATTER APPROVED BY THE SECRETARY OF
27 STATE SUCH AS TRANSFERRING VEHICLE TITLES, DOCUMENTATION OF TITLE

1 TRANSFERS, RECORD KEEPING, CONSUMER PROTECTION, AND SALES AND USE
2 TAX COLLECTION. THE DEPARTMENT MAY CONSULT WITH ANY OTHER
3 DEPARTMENTS IT CONSIDERS APPROPRIATE TO EVALUATE AND APPROVE COURSE
4 CONTENT.

5 (iv) IS CONDUCTED BY 1 OF THE FOLLOWING:

6 (A) THE DEPARTMENT.

7 (B) A QUALIFIED TRADE ORGANIZATION THAT IS APPROVED BY THE
8 DEPARTMENT. THE DEPARTMENT MAY EVALUATE A QUALIFIED TRADE
9 ORGANIZATION APPROVED UNDER THIS SUB-SUBPARAGRAPH TO DETERMINE
10 WHETHER IT MEETS THE REQUIREMENTS OF THIS SUBDIVISION. THE
11 DEPARTMENT MAY, AFTER A HEARING, SUSPEND OR REVOKE A QUALIFIED
12 TRADE ORGANIZATION'S APPROVAL TO OFFER THE TRAINING DESCRIBED IN
13 THIS SUBDIVISION FOR FAILURE TO COMPLY WITH THOSE REQUIREMENTS.

14 (2) IN THE 6-MONTH PERIOD PRECEDING THE DATE OF THE
15 APPLICATION FOR AN ORIGINAL ELIGIBLE USED VEHICLE DEALER LICENSE,
16 EACH INDIVIDUAL WHO IS THE APPLICANT, EACH PARTNER OF THE
17 APPLICANT, OR EACH OFFICER OF THE APPLICANT, AS APPLICABLE, FOR THE
18 ORIGINAL ELIGIBLE USED VEHICLE DEALER LICENSE MUST COMPLETE THE
19 DEALER TRAINING PROGRAM DESCRIBED IN SUBSECTION (1) (A). THIS
20 SUBSECTION DOES NOT APPLY TO EITHER OF THE FOLLOWING:

21 (A) AN APPLICANT OR APPLICATION FOR THE RENEWAL OF AN ELIGIBLE
22 USED VEHICLE DEALER LICENSE.

23 (B) THE HOLDER OF AN ORIGINAL ELIGIBLE USED VEHICLE DEALER
24 LICENSE THAT WAS GRANTED BEFORE, AND IS VALID ON, THE EFFECTIVE
25 DATE OF THIS SECTION.

26 (3) IN THE 90-DAY PERIOD FOLLOWING THE ISSUANCE OF AN ORIGINAL
27 DEALER LICENSE TO AN ELIGIBLE USED VEHICLE DEALER, THE LICENSED

1 DEALER SHALL SELECT A DESIGNATED INDIVIDUAL AND ENSURE THAT HE OR
2 SHE COMPLETES THE DEALER TRAINING PROGRAM DESCRIBED IN SUBSECTION
3 (1) (B). HOWEVER, THIS SUBSECTION DOES NOT APPLY IF THE DESIGNATED
4 INDIVIDUAL HAS COMPLETED THE TRAINING PROGRAM DESCRIBED IN
5 SUBSECTION (1) (C). AN ELIGIBLE USED VEHICLE DEALER MUST SELECT A
6 DESIGNATED INDIVIDUAL FOR EACH OF ITS RETAIL SALES LOCATIONS. AN
7 ELIGIBLE USED VEHICLE DEALER MUST NOT SELECT THE SAME INDIVIDUAL AS
8 THE DESIGNATED INDIVIDUAL FOR MORE THAN 1 RETAIL SALES LOCATION.

9 (4) SUBSECTION (3) DOES NOT APPLY TO THE HOLDER OF AN ORIGINAL
10 OR RENEWAL ELIGIBLE USED VEHICLE DEALER LICENSE THAT WAS GRANTED
11 BEFORE, AND IS VALID ON, THE EFFECTIVE DATE OF THIS SECTION UNTIL
12 THAT LICENSE IS NEXT RENEWED.

13 (5) IN ADDITION TO THE TRAINING PROGRAM DESCRIBED IN
14 SUBSECTION (1) (B), AN ELIGIBLE USED VEHICLE DEALER SHALL ENSURE
15 THAT A DESIGNATED INDIVIDUAL COMPLETES THE TRAINING PROGRAM
16 DESCRIBED IN SUBSECTION (1) (C) 1 TIME IN EACH 12-MONTH PERIOD AFTER
17 THE DATE OF ISSUANCE OF ITS ORIGINAL LICENSE.

18 (6) THE DEPARTMENT SHALL NOT RENEW THE LICENSE OF AN ELIGIBLE
19 USED VEHICLE DEALER UNLESS THE APPLICATION FOR RENEWAL INCLUDES A
20 CERTIFICATION FROM THE DEALER THAT IT IS IN COMPLIANCE WITH THE
21 TRAINING REQUIREMENTS APPLICABLE UNDER THIS SECTION.

22 (7) AS USED IN THIS SECTION:

23 (A) "DESIGNATED INDIVIDUAL" MEANS ANY OF THE FOLLOWING
24 INDIVIDUALS, IF HE OR SHE IS SELECTED BY AN ELIGIBLE USED VEHICLE
25 DEALER TO COMPLETE A TRAINING PROGRAM DESCRIBED IN THIS SECTION:

26 (i) AN INDIVIDUAL WHO IS A LICENSED ELIGIBLE USED VEHICLE
27 DEALER OR A PARTNER OR OFFICER OF A LICENSED ELIGIBLE USED VEHICLE

1 DEALER.

2 (ii) IS AN EMPLOYEE OF A LICENSED ELIGIBLE USED VEHICLE
3 DEALER, SUCH AS A GENERAL MANAGER, A SALES MANAGER, OR AN EMPLOYEE
4 WHO IS RESPONSIBLE FOR PREPARING TITLE DOCUMENTS FOR THE DEALER.

5 (B) "ELIGIBLE USED VEHICLE DEALER" MEANS A PERSON THAT IS
6 LICENSED AS A USED OR SECONDHAND VEHICLE DEALER, OR IS APPLYING FOR
7 LICENSURE AS A USED OR SECONDHAND VEHICLE DEALER, AND IS NOT
8 LICENSED OR SEEKING LICENSURE AS A NEW VEHICLE DEALER.

9 (C) "QUALIFIED TRADE ORGANIZATION" MEANS A BONA FIDE NONPROFIT
10 MEMBERSHIP ORGANIZATION THAT IS BASED IN THIS STATE, THAT HAS BEEN
11 IN EXISTENCE FOR AT LEAST 5 YEARS, AND WHOSE MEMBERS ARE PRIMARILY
12 ELIGIBLE USED VEHICLE DEALERS.

13 Enacting section 1. This amendatory act takes effect 90 days
14 after the date it is enacted into law.