

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2019

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SENATE BILL 385  
PROPOSED COMMITTEE SUBSTITUTE S385-PCS35280-BH-14

Short Title: Clarify/Auto Dealers Regulatory Req.

(Public)

Sponsors:

Referred to:

March 28, 2019

1 A BILL TO BE ENTITLED  
2 AN ACT TO CLARIFY MOTOR VEHICLE DEALER REGULATORY REQUIREMENTS.  
3 The General Assembly of North Carolina enacts:  
4

5 **SALESMAN LICENSING/PENDING APPLICATION**

6 **SECTION 1.** G.S. 20-287(a) reads as rewritten:

7 "(a) License Required. – It shall be unlawful for any new motor vehicle dealer, used motor  
8 vehicle dealer, motor vehicle sales representative, manufacturer, factory branch, factory  
9 representative, distributor, distributor branch, distributor representative, or wholesaler to engage  
10 in business in this State without first obtaining a license as provided in this Article. If any motor  
11 vehicle dealer acts as a motor vehicle sales representative, the dealer shall obtain a motor vehicle  
12 sales representative's license in addition to a motor vehicle dealer's license. A sales representative  
13 may have only one license. The license shall show the name of the dealer or wholesaler  
14 employing the sales representative. An individual who has submitted an application to the  
15 Division for a sales representative license pursuant to G.S. 20-288(a) shall be permitted to engage  
16 in activities as a sales representative while the application is pending provided that the sales  
17 representative applicant is actively and directly supervised by a licensed motor vehicle dealer or  
18 a licensed sales representative. The following license holders may operate as a motor vehicle  
19 dealer without obtaining a motor vehicle dealer's license or paying an additional fee: a  
20 manufacturer, a factory branch, a distributor, and a distributor branch. Any of these license  
21 holders who operates as a motor vehicle dealer may sell motor vehicles at retail only at an  
22 established salesroom."

23 **SECTION 2.** G.S. 20-306 reads as rewritten:

24 **"§ 20-306. Unlawful for salesman to sell except for his employer; multiple employment;**  
25 **persons who arrange transactions involving the sale of new motor vehicles.**

26 It shall be unlawful for any motor vehicle salesman licensed under this Article or a supervised  
27 sales representative who has submitted an application for a license as required in G.S. 20-288 to  
28 sell or exchange or offer or attempt to sell or exchange any motor vehicle other than his own  
29 except for the licensed motor vehicle dealer or dealers by whom he is employed, or to offer,  
30 transfer or assign, any sale or exchange, that he may have negotiated, to any other dealer or  
31 salesman. A salesman may be employed by more than one dealer provided such multiple  
32 employment is clearly indicated on his license. It shall be unlawful for any person to, for a fee,  
33 commission, or other valuable consideration, arrange or offer to arrange a transaction involving  
34 the sale of a new motor vehicle; provided, however, this prohibition shall not be applicable to:



\* S 3 8 5 - P C S 3 5 2 8 0 - B H - 1 4 \*

- 1 (1) A franchised motor vehicle dealer as defined in G.S. 20-286(8b) who is  
 2 licensed under this Article or a sales representative who is licensed under this  
 3 Article when acting on behalf of the dealer;  
 4 (2) A manufacturer who is licensed under this Article or bona fide employee of  
 5 such manufacturer when acting on behalf of the manufacturer;  
 6 (3) A distributor who is licensed under this Article or a bona fide employee of  
 7 such distributor when acting on behalf of the distributor; or  
 8 (4) At any point in the transaction the bona fide owner of the vehicle involved in  
 9 the transaction."  
 10

11 **LICENSE APPLICATION REVISIONS/PUBLICATION OF MANUFACTURER**  
 12 **LICENSE OR LICENSE RENEWAL APPLICATIONS**

13 **SECTION 3.** G.S. 20-288 reads as rewritten:

14 **"§ 20-288. Application for license; license requirements; expiration of license; bond.**

15 (a) A new motor vehicle dealer, motor vehicle sales representative, manufacturer, factory  
 16 branch, factory representative, distributor, distributor branch, distributor representative, or  
 17 wholesaler may obtain a license by filing an application with the Division. An application must  
 18 be on a form provided by the Division and contain the information required by the Division. An  
 19 application for a license must be accompanied by the required fee ~~and by an application for a~~  
 20 ~~dealer license plate fee.~~ The following requirements also apply to applicants under this section:

21 (1) An application for a new motor vehicle dealer license must be accompanied  
 22 by an application for a dealer license plate. In addition, the Division shall  
 23 require each applicant for a new motor vehicle dealer license to certify on the  
 24 application whether the applicant or any parent, subsidiary, affiliate, or any  
 25 other entity related to the applicant is a manufacturer, factory branch, factory  
 26 representative, distributor, distributor branch, distributor representative, or  
 27 wholesaler. In the event the applicant indicates on the application that the  
 28 applicant or any parent, subsidiary, affiliate, or any other entity related to the  
 29 applicant is a manufacturer, factory branch, factory representative, distributor  
 30 branch, distributor representative, or wholesaler, the applicant shall be  
 31 required to state whether the applicant contends it qualifies for a motor vehicle  
 32 dealer's license in accordance with any of the exceptions to the prohibition on  
 33 the issuance of a motor vehicle dealer's license to any manufacturer, factory  
 34 branch, factory representative, distributor, distributor representative, or  
 35 wholesaler as provided in G.S. 20-305.2(a).

36 (2) Upon submission of a license application by a manufacturer, factory branch,  
 37 factory representative, distributor, distributor branch, distributor  
 38 representative, or wholesaler, the Division shall promptly publish notice of  
 39 the license application in the North Carolina Register. The notice shall include  
 40 the applicant's name, address, application date, and the names and titles of any  
 41 individual listed on the application as an owner, partner, member, or officer  
 42 of the applicant. The Division shall not approve or issue any license for a  
 43 manufacturer, factory branch, factory representative, distributor, distributor  
 44 branch, distributor representative, or wholesaler earlier than 15 days from the  
 45 date the notice of the license or license renewal application was published in  
 46 the North Carolina Register.

47 (a1) A used motor vehicle dealer may obtain a license by filing an application, as  
 48 prescribed in subsection (a) of this section, and providing the following:

49 ...  
 50 (5) A certification as to whether the applicant or any entity having any common  
 51 ownership or affiliation with the applicant is a motor vehicle manufacturer,

factory branch, factory representative, distributor, distributor branch, or distributor representative. In the event the applicant indicates on the application that the applicant or any parent, subsidiary, affiliate, or any other entity related to the applicant is a manufacturer, factory branch, factory representative, distributor, distributor branch, distributor representative, or wholesaler, the applicant shall be required to state whether the applicant contends it qualifies for a motor vehicle dealer's license in accordance with any of the exceptions to the prohibition on the issuance of a motor vehicle dealer's license to any manufacturer, factory branch, factory representative, distributor, distributor branch, distributor representative, or wholesaler as provided in G.S. 20-305.2(a).

...."

**EFFECTIVE DATE OF RULE, LAW, AND OTHER CHANGES/APPLICABILITY TO MOTOR VEHICLE SALES**

**SECTION 4.** G.S. 20-2 is amended by adding a new subsection to read:

"(c) Effective Date. – Any rule, change in law, or other action that directs or requires a new or adjusted fee or tax, a new or amended form prescribed by the Division, or any other change applicable to a motor vehicle sold or leased by a motor vehicle dealer as defined in G.S. 20-286(11) shall only apply to sales or leases made on or after the effective date of the new or adjusted fee or tax, new or amended form prescribed by the Division, or other change regardless of the date of submission of a title and registration application for the motor vehicle to the Division. No new or adjusted fee or tax levied, new or amended form prescribed by the Division, or any other change under this Chapter shall apply to a motor vehicle sale or lease made prior to the effective date of the new or adjusted fee or tax, new or amended form prescribed by the Division, or other change."

**EFFECTIVE DATE**

**SECTION 5.** This act is effective when it becomes law.