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Chapter No. 400
15/HR40/R1478SG
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# *HOUSE BILL NO. 1000*

Originated in House _____ Clerk

HOUSE BILL NO. 1000

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

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

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

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

(2) Every licensed dealer as defined in this chapter <u>including wholesale dealers</u>, shall be a designated agent of

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

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

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

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

(a) "Motor vehicle" shall mean every vehicle intended primarily for use and operation on the public highways, which is self-propelled and every vehicle intended primarily for operation on the public highways, which is not driven or propelled by its

own power, but which is designed either to be attached to and become a part of or to be drawn by a self-propelled vehicle, but not including farm tractors and other machines and tools used in production, harvesting and care of farm products.

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

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

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

(ii) Motorcycles;

(iii) Trailers, semitrailers and house trailers; and

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

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

(i) Directors, stockholders or inactive partners; or

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

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

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

(v) Persons who shall sell motor vehicles as an incident to their principal business but who are not engaged primarily in selling motor vehicles. The foregoing shall include only finance companies or banks which sell repossessed motor vehicles, and insurance companies which sell motor vehicles which they have taken into their possession as an incident of payment

made under policies of insurance, and which do not maintain a used car lot or building with one or more employed motor vehicle salesmen.

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

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

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

purpose of transacting the business of offering motor vehicles, tractors, trailers or semitrailers for sale, or in lieu of such office there shall be an adequate display of identification as a motor vehicle dealer as specified by the Commissioner of Revenue of the Department of Revenue.

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

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

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

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

"motor vehicle dealer," except for the purchase and use of distinguishing number tags. A limited dealer shall abide by all provisions and requirements of this article associated with a "motor vehicle dealer."

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

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

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

applied for until the license is either granted or, in case it is denied, until the applicant has exhausted or has had an opportunity to exhaust all of his remedies under Section 63-17-99. No person not engaged in a business or occupation requiring such a license on July 1, 1970, shall be permitted to engage in such business or occupation until he shall have first obtained a license to engage in such business or occupation.

Applications for licenses shall be verified by the oath or affirmation of the applicants and shall be on forms prescribed by the commission and furnished to such applicants. Applications shall contain such information as the commission deems necessary to enable it to fully determine the qualifications and eligibility of the several applicants to receive the license or licenses applied for. The commission shall require that there be set forth in each application information relating to the applicant's financial standing, the applicant's business integrity, whether the applicant has an established place of business and is primarily engaged in the pursuit, avocation or business for which a license or licenses is applied for, and whether the applicant is able to properly conduct the business for which a license or licenses is applied for, and such other pertinent information consistent with the safeguarding of the public interest and public welfare. Applications for license as a motor vehicle dealer shall, in addition to the foregoing, be accompanied by the filing with the commission of a bona fide contract or franchise then in

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

New applications for licenses as a new, used or wholesale motor vehicle dealer shall, in addition to the foregoing, be

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

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

<u>New, used and wholesale motor vehicle dealers shall be required to maintain motor vehicle liability insurance providing blanket coverage on vehicles operated on the public streets and highways of this state, including vehicles in dealership</u>

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

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

PASSED BY THE HOUSE OF REPRESENTATIVES
February 4, 2015

Philip Gunn

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PASSED BY THE SENATE
March 4, 2015

Tate Reeves

PRESIDENT OF THE SENATE

APPROVED BY THE GOVERNOR

Phil Bryant

GOVERNOR

3/23/15
12:15pm