

Senate Engrossed

FILED
KEN BENNETT
SECRETARY OF STATE

State of Arizona
Senate
Fifty-first Legislature
Second Regular Session
2014

CHAPTER 81

SENATE BILL 1474

AN ACT

AMENDING SECTION 28-4301, ARIZONA REVISED STATUTES; RELATING TO USED MOTOR
VEHICLE DEALERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 28-4301, Arizona Revised Statutes, is amended to
3 read:

4 28-4301. Definitions

5 In this chapter, unless the context otherwise requires:

6 1. "Area of responsibility" means the area surrounding an individual
7 dealer that the factory designates as that dealer's individual primary
8 geographic territory for the purpose of marketing, promoting, selling and
9 leasing new motor vehicles. In the absence of the factory designated area,
10 the area of responsibility is that geographical area surrounding a dealer
11 that lies closer to that dealer than to other dealers of the same line-make.

12 2. "Automotive recycler" means a person who is engaged in the business
13 of buying or acquiring a motor vehicle solely for the purpose of dismantling,
14 selling or otherwise disposing of the parts or accessories and who dismantles
15 six or more vehicles in a calendar year.

16 3. "Branch license" means a license that is issued by the director to
17 a licensed motor vehicle dealer and that permits the licensee to sell motor
18 vehicles from an established place of business within the same county but
19 other than the original or principal place of business for which the license
20 was issued.

21 4. "Broker" means a person who for any fee, commission or other
22 valuable consideration offers to provide, provides or represents that the
23 person will provide a service of arranging or assisting in effecting the
24 purchase of a motor vehicle and who is not:

25 (a) A new motor vehicle dealer or an employee or agent of a new motor
26 vehicle dealer.

27 (b) A used motor vehicle dealer or an employee or agent of a used
28 motor vehicle dealer.

29 (c) A manufacturer or employee or agent of a manufacturer.

30 (d) An auctioneer or engaged in the auto auction business.

31 (e) A wholesale motor vehicle dealer.

32 5. "Community" means the relevant market area. For the purposes of
33 this paragraph, "relevant market area" means the incorporated city or town in
34 which the franchise is located.

35 6. "Distributor" means a person who either:

36 (a) Sells or distributes new motor vehicles to new motor vehicle
37 dealers in this state.

38 (b) Maintains distributor representatives in this state.

39 7. "Distributor branch" means a branch office maintained or availed of
40 by a distributor for either:

41 (a) The sale of new motor vehicles to new motor vehicle dealers in
42 this state.

43 (b) Directing or supervising its representatives in this state.

44 8. "Established place of business":

45 (a) Means a permanent enclosed building or structure that is owned
46 either in fee or leased with sufficient space to display two or more motor

1 vehicles of a kind and type that the dealer is licensed to sell and that is
2 devoted principally to the use of a motor vehicle dealer in the conduct of
3 the business of the dealer.

4 (b) In the case of a used motor vehicle dealer, trailer dealer or
5 semitrailer dealer:

6 (i) Need not be a permanent building or structure or part of a
7 permanent building or structure.

8 (ii) May be a vacant lot or part of a vacant lot.

9 (iii) Does not mean or include a residence, tent, temporary stand or
10 temporary quarters or permanent quarters occupied pursuant to a temporary
11 arrangement.

12 (c) In the case of an automotive recycler, means a permanent site or
13 location at which the business of an automotive recycler is or will be
14 conducted.

15 9. "Exhibitor" means a manufacturer of new motor homes that exhibits
16 new motor homes at a special event.

17 10. "Factory branch" means a branch office maintained or availed of by
18 a manufacturer for either:

19 (a) The sale of new motor vehicles to distributors or the sale of new
20 motor vehicles to new motor vehicle dealers in this state.

21 (b) Directing or supervising its representatives in this state.

22 11. "Financial institution" means a bank, trust company, savings and
23 loan association, credit union, consumer lender, international banking
24 facility or holding company that is licensed, regulated or insured by the
25 department of financial institutions, the federal deposit insurance
26 corporation, the office of thrift supervision, the comptroller of the
27 currency, the national credit union share insurance fund or the national
28 credit union administration.

29 12. "Franchise" means a contract between two or more persons if all of
30 the following conditions are included:

31 (a) A commercial relationship of definite duration or continuing
32 indefinite duration is involved.

33 (b) The franchisee is granted the right to offer, sell and service in
34 this state new motor vehicles manufactured or distributed by the franchisor.

35 (c) The franchisee, as a separate business, constitutes a component of
36 the franchisor's distribution system.

37 (d) The operation of the franchisee's business is substantially
38 associated with the franchisor's trademark, service mark, trade name,
39 advertising or other commercial symbol designating the franchisor.

40 (e) The operation of the franchisee's business is substantially
41 reliant on the franchisor for the continued supply of new motor vehicles,
42 parts and accessories.

43 13. "Franchisee" means a person who both:

44 (a) Receives new motor vehicles from the franchisor under a franchise.

45 (b) Offers and sells to and services new motor vehicles for the
46 general public.

- 1 14. "Franchisor" means a person who both:
2 (a) Manufactures or distributes new motor vehicles.
3 (b) May enter into a franchise.
- 4 15. "Importer" means a person who transports or arranges for the
5 transportation of a foreign manufactured new motor vehicle into the United
6 States for sale in this state.
- 7 16. "Lead" means any retail consumer who satisfies all of the
8 following:
9 (a) Responds to a factory-directed program that obtains consumer
10 contact information and that provides such information to one or more
11 dealers.
12 (b) Expresses an interest to the factory in purchasing, leasing or
13 acquiring any vehicle or product, service or financing available from the
14 dealers of that factory.
15 (c) Does not qualify for any reasonable factory sponsored employee,
16 retiree or vendor new vehicle purchase program or any other reasonable
17 similar factory new vehicle purchase program.
- 18 17. "Line-make" means those motor vehicles that are offered for sale,
19 lease or distribution under a common name, trademark, service mark or brand
20 name of the manufacturer of those same motor vehicles.
- 21 18. "Major component part" includes a motor vehicle or vehicle part
22 that the manufacturer has assigned any factory, motor, serial or other
23 identification number or mark.
- 24 19. "Manufacturer" means any person who either:
25 (a) Manufactures or assembles new motor vehicles.
26 (b) Manufactures or installs on previously assembled truck chassis
27 special bodies or equipment that when installed forms an integral part of the
28 new motor vehicle and that constitutes a major manufacturing alteration,
29 excluding the installation of a camper on a pickup truck.
- 30 20. "Motor home" means a motor vehicle that is primarily designed as
31 temporary living quarters and that:
32 (a) Is built onto as an integral part of, or is permanently attached
33 to, a motor vehicle chassis.
34 (b) Contains at least four of the following independent life support
35 systems if each is permanently installed and designed to be removed only for
36 purposes of repair or replacement:
37 (i) A cooking facility with an onboard fuel source.
38 (ii) A gas or electric refrigerator.
39 (iii) A toilet with exterior evacuation.
40 (iv) A heating or air conditioning system with an onboard power or
41 fuel source separate from the vehicle engine.
42 (v) A potable water supply system that includes at least a sink, a
43 faucet and a water tank with an exterior service supply connection.
44 (vi) A 110-125 volt electric power supply.
- 45 21. "Motor vehicle" means an automobile, motor bus, motorcycle, truck
46 or truck tractor or any other self-propelled vehicle, trailer or semitrailer.

1 22. "Motor vehicle dealer" means a new motor vehicle dealer, a used
2 motor vehicle dealer, a public consignment auction dealer, a broker or a
3 wholesale motor vehicle auction dealer, excluding a person who comes into
4 possession of a motor vehicle as an incident to the person's regular business
5 and who sells, auctions or exchanges the motor vehicle.

6 23. "New house trailer dealer" means a person who buys, sells,
7 exchanges or offers or attempts to negotiate a sale or exchange of an
8 interest in, or who is engaged in the business of selling, new house trailers
9 or used house trailers taken in trade on new house trailers. For the
10 purposes of this paragraph, "house trailer" means a vehicle, other than a
11 motor vehicle, that is built on a chassis designed for being drawn on the
12 highways by a motor vehicle and that is designed for human habitation.

13 24. "New motor vehicle" means a motor vehicle, other than a used motor
14 vehicle, that is held either for:

15 (a) Sale by the franchisee who first acquired the vehicle from the
16 manufacturer or distributor of the vehicle.

17 (b) Sale by another franchisee of the same line-make.

18 25. "New motor vehicle dealer" means a person who buys, sells,
19 exchanges or offers or attempts to negotiate a sale or exchange of an
20 interest in, or who is engaged in the business of selling, new motor vehicles
21 or used motor vehicles taken in trade on new motor vehicles or used vehicles
22 purchased for resale.

23 26. "Off-premises display and sales" means a promotion or sale of motor
24 vehicles for a period of time as specified by the director that both:

25 (a) Is sponsored by a licensed motor vehicle dealer, the licensed
26 motor vehicle dealer's agents or the manufacturer.

27 (b) Takes place at a location within the same county but not at the
28 licensee's established place of business.

29 27. "Off-premises exhibition" means the exhibition of a motor vehicle
30 for a period of time as specified by the director at a location within the
31 same county but not at the established place of business of a licensed motor
32 vehicle dealer and at which a solicitation or sale does not occur.

33 28. "Provisional automotive recycler's license" means a license that
34 both:

35 (a) Is issued by the department only in conjunction with an
36 application for an automotive recycler's license.

37 (b) Permits the applicant or applicants to conduct the business of an
38 automotive recycler regulated by this chapter pending completion of the
39 criminal records check pursuant to section 28-4361.

40 29. "Provisional dealer's license" means a license that both:

41 (a) Is issued by the department only in conjunction with an
42 application for a dealer's license.

43 (b) Permits the applicant or applicants to conduct the business of a
44 motor vehicle dealer regulated by this chapter pending completion of the
45 criminal records check pursuant to section 28-4361.

1 30. "Public consignment auction dealer" means a person who at the
2 public consignment auction dealer's established place of business or at an
3 authorized off-premises location pursuant to the requirements of section
4 28-4401 is in the business of both of the following:

5 (a) Conducting live auctions with a licensed auctioneer verbally
6 calling for and accepting bids.

7 (b) Providing live auction services to the public on a consignment
8 contract basis.

9 31. "Retail consumer" means any person purchasing, leasing or acquiring
10 or possibly purchasing, leasing or acquiring a vehicle or product, service or
11 financing not for resale.

12 32. "Service" means any service that is sold, leased or provided to
13 retail consumers and that directly relates to the ownership or leasing of a
14 new or used motor vehicle, including extended service contracts or motor
15 vehicle warranty and nonwarranty repairs or maintenance, including both parts
16 and labor.

17 33. "Special event" means an exhibition of new motor homes by a motor
18 vehicle dealer licensed to sell new motor homes or an exhibitor for a period
19 of time specified by the director at a location in this state other than the
20 licensee's or exhibitor's established place of business.

21 34. "Used motor vehicle" means a motor vehicle that has been sold,
22 bargained, exchanged or given away or the title to the motor vehicle has been
23 transferred from the person who first acquired the vehicle from the
24 manufacturer, or importer, dealer or agent of the manufacturer or importer,
25 and that has been placed in bona fide consumer use. For the purposes of this
26 paragraph, "bona fide consumer use" means actual operation by an owner who
27 acquired a new motor vehicle both:

28 (a) For use in the owner's business or for pleasure or otherwise.

29 (b) For which a certificate of title has been issued or that has been
30 registered as provided by law.

31 35. "Used motor vehicle dealer" means a person, other than a new motor
32 vehicle dealer, who buys, sells, auctions, exchanges or offers or attempts to
33 negotiate a sale or exchange of an interest in, or who is engaged in the
34 business of selling, ~~four~~ SEVEN or more used motor vehicles in a continuous
35 twelve month period. Used motor vehicle dealer does not include a wholesale
36 motor vehicle auction dealer or a public consignment auction dealer.

37 36. "Wholesale motor vehicle auction dealer" means a person who both:

38 (a) Is in the business of providing auction services solely in
39 wholesale transactions to motor vehicle dealers licensed by this state or any
40 other jurisdiction.

41 (b) Does not buy, sell or own the motor vehicles the auction dealer
42 auctions in the ordinary course of business.

43 37. "Wholesale motor vehicle dealer" means a person who sells used
44 motor vehicles only to licensed motor vehicle dealers.

~~APPROVED BY THE GOVERNOR APRIL 17, 2014.~~

~~FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 18, 2014.~~

Passed the House April 14, 2014,

Passed the Senate March 6, 2014,

by the following vote: 54 Ayes,

by the following vote: 27 Ayes,

1 Nays, 5 Not Voting

0 Nays, 3 Not Voting

[Signature]
Speaker of the House

[Signature]
President of the Senate

Cheryl Laube
Chief Clerk of the House

Suzanne Cecovas
Assistant Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

16th day of April, 2014,

at 4:15 o'clock P M.

[Signature]
Secretary to the Governor

Approved this 17th day of

April, 2014,

at 10:24 o'clock A M.

[Signature]
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 18th day of April, 2014,

at 8:10 o'clock a M.

[Signature]
Secretary of State

S.B. 1474