

## MOTOR VEHICLE MANUFACTURERS, DISTRIBUTORS, AND DEALERS

### Footnotes

Court action required for termination of installment contracts during military service; § 29A.102, 29A.105

Court action or parties agreement required for disposition of property under obligation secured by mortgage, trust deed, or other security during military service; § 29A.103, 29A.104

### 322.1 Administration.

The administration of this chapter shall be vested in the director of transportation. The department may employ such employees as are necessary for the administration of this chapter, provided the amount expended in any one year shall not exceed the revenue derived from the provisions of this chapter.

The director may enter into reciprocity agreements with the authorized representatives of any jurisdiction to exchange information on dealer activity in order to pursue legal action for violations.

[C39, § 5039.01; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 322.1]

92 Acts, ch 1175, § 12

### 322.2 Definitions.

As used in this chapter and unless a different meaning appears from the context:

1. *"At retail"* means to dispose of a motor vehicle to a person who will devote it to a consumer use.
2. *"Completed motor vehicle"* means a motor vehicle which does not require any additional manufacturing operations to perform its intended function except the addition of readily attachable equipment, components or minor finishing operations.
3. *"Department"* means the state department of transportation.
4. *"Distributor"* or *"wholesaler"* means a person, resident or nonresident, who in whole or part, sells or distributes motor vehicles to motor vehicle dealers, or who maintains distributor representatives.
5. *"Distributor branch"* means a branch office similarly maintained by a distributor or wholesaler for the same purposes.
6. *"Distributor representative"* means a representative similarly employed by a distributor, distributor branch or wholesaler.
7. *"Engaged in the business"* means doing any of the following acts for the purpose of the sale of motor vehicles at retail: acquiring, selling, exchanging, holding, offering, displaying, brokering, accepting on consignment, conducting a retail auction, or acting as an agent for the purpose of doing any of those acts. A person selling at retail more than six motor vehicles during a twelve-month period may be presumed to be engaged in the business.
8. *"Factory branch"* means a branch office maintained by a person who manufactures or assembles motor vehicles, for the sale of motor vehicles to distributors, or for the sale of motor vehicles to motor vehicle dealers or for directing or supervising in whole or part, its representatives.

9. "*Factory representative*" means a representative employed by a person who manufactures or assembles motor vehicles or by a factory branch, for the purpose of making or promoting the sale of its motor vehicles, or for supervising or contacting its dealers or prospective dealers.

10. The "*holder*" of a retail installment contract means the retail seller of the motor vehicle under or subject to the contract or, if the contract is purchased by a sales finance company or other assignee, the sales finance company or other assignee.

11. "*Manufacturer*" means any person engaged in the business of fabricating or assembling motor vehicles. It does not include a person who converts, modifies, or alters a completed motor vehicle manufactured by another person. It includes a person who uses a completed motor vehicle manufactured by another person to construct a class "B" motor home as defined in section 321.124.

12. "*Motor vehicle*" means any self-propelled vehicle subject to registration under chapter 321.

13. "*Person*" includes any individual, firm, corporation, copartnership, joint adventure, or association, and the plural as well as the singular number.

14. "*Place of business*" means a designated location wherein proper and adequate facilities shall be maintained for displaying, reconditioning, and repairing either new or used cars.

15. "*Retail buyer*" or "*buyer*" means a person who buys a motor vehicle from a retail seller.

16. "*Retail installment contract*" or "*contract*" means an agreement, entered into in this state, pursuant to which the title to, the property in or a lien upon the motor vehicle, which is the subject matter of a retail installment transaction, is retained or taken by a retail seller from a retail buyer as security, in whole or in part, for the buyer's obligation. The term includes a chattel mortgage, a conditional sales contract and a contract for the bailment or leasing of a motor vehicle by which the bailee or lessee contracts to pay as compensation for its use a sum substantially equivalent to or in excess of its value and by which it is agreed that the bailee or lessee is bound to become, or has the option of becoming, the owner of the motor vehicle upon full compliance with the provisions of the contract.

17. "*Retail installment transaction*" means any sale evidenced by a retail installment contract between a retail buyer and a retail seller wherein the retail buyer buys a motor vehicle from a retail seller at a time price payable in one or more installments.

18. "*Retail seller*" or "*seller*" means a person who sells a motor vehicle to a retail buyer.

19. "*Sales finance company*" means a person engaged, in whole or in part, in the business of purchasing retail installment contracts from one or more retail sellers. The term also includes a retail seller engaged, in whole or in part, in the business of creating and holding retail installment contracts. The term does not include the pledgee of an aggregate number of such contracts to secure a bona fide loan thereon.

20. "*Selling*" includes bartering, exchanging, delivering, or otherwise dealing in.

21. "*Special equipment*" means equipment installed on a motor truck which, in combination with the motor truck on which the equipment is installed, constitutes a self-contained unit configured for a specific purpose. To constitute special equipment, a minimum of seven thousand five hundred dollars or twenty-five percent of the retail value of the motor truck, whichever is greater, must be expended in installing the equipment on the motor truck, including the cost of the equipment. "*Special equipment*" does not include equipment designed for the transportation of passengers.

22. *"Used motor vehicle" or "second-hand motor vehicle"* means any motor vehicle of a type subject to registration under the laws of this state which has been sold "at retail" as defined in this chapter and previously registered in this or any other state.

Nothing contained herein shall be construed to require the licensing or to apply to any bank, credit union or trust company in Iowa.

[C39, § 5039.02; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 322.2]

97 Acts, ch 108, §35; 2000 Acts, ch 1134, §4; 2001 Acts, ch 32, §29

### **322.3 Prohibited acts.**

1. A person shall not engage in this state in the business of selling at retail new motor vehicles of any make or represent or advertise that the person is engaged or intends to engage in such business in this state unless the person is authorized to do so by a contract in writing with the manufacturer or distributor of such make of new motor vehicles and unless the department has licensed the person as a motor vehicle dealer in this state in motor vehicles of such make and has issued to the person a license in writing as provided in this chapter.
2. A person other than a licensed dealer in new motor vehicles shall not engage in this state in the business of selling at retail used motor vehicles or represent or advertise that the person is engaged or intends to engage in such business in this state unless and until the department has licensed the person as a used motor vehicle dealer in the state and has issued to the person a license in writing as provided in this chapter.
3. Subsections 1 and 2 shall not be construed to require the separate licensing of persons employed as salespersons of motor vehicles by a retail motor vehicle dealer. However, the department may promulgate reasonable rules as necessary for the proper identification of persons employed as salespersons.
4. A person who is engaged in the business of selling at retail motor vehicles shall not enter into any contract, agreement, or understanding, express or implied, with any manufacturer or distributor of any such motor vehicles that the person will sell, assign, or transfer any retail installment contracts arising from the retail installment sale of such motor vehicles only to a designated person or class of persons. A condition, agreement, or understanding between any manufacturer or distributor and a motor vehicle dealer in this state of this nature is hereby declared to be against the public policy of this state and to be unlawful and void.
5. A manufacturer or distributor of motor vehicles or any agent or representative of a manufacturer or distributor shall not terminate, threaten to terminate, or fail to renew any contract, agreement, or understanding for the sale of new motor vehicles to any motor vehicle dealer in this state without just, reasonable, and lawful cause or because the motor vehicle dealer failed to sell, assign, or transfer any retail installment contract arising from the retail sale of such motor vehicles or any one or more of them to a person or a class of persons designated by the manufacturer or distributor.
6. A person who is engaged in the business of selling at retail motor vehicles shall not make and enter into a retail installment contract unless the contract meets the following requirements:
  - a. Every retail installment contract shall be in writing, shall be signed by both the buyer and the seller, and shall be completed as to all essential provisions prior to the signing of the contract by the buyer except that, if delivery of the motor vehicle is not made at the time of the execution of the contract, the identifying numbers or marks of the motor vehicle or similar information and the due date of the first installment may be inserted in the contract after its execution.
  - b. The contract shall comply with the Iowa consumer credit code, chapter 537, where applicable.

7. This section shall not be construed to require that a place of business as defined in this chapter shall be maintained by a person selling motor vehicles at retail solely for the purpose of disposing of motor vehicles acquired or repossessed by such person in exercise of powers or rights granted by lien or title-retention instruments or contracts given as security for loans or purchase money obligations.

8. A manufacturer or distributor of motor vehicles or agent or representative of a manufacturer or distributor shall not coerce or attempt to coerce any motor vehicle dealer to accept delivery of any motor vehicle or vehicles, parts, or accessories, or any other commodity or commodities which have not been ordered by the dealer.

9. A person licensed under this chapter shall not, either directly or through an agent, salesperson, or employee, engage in this state, or represent or advertise that the person is engaged or intends to engage in this state, in the business of buying or selling at retail new or used motor vehicles, other than mobile homes more than eight feet in width or more than thirty-two feet in length as defined in section 321.1, on the first day of the week, commonly known and designated as Sunday.

10. A manufacturer, distributor, or importer of motor vehicles or agent or representative of such manufacturer, distributor, or importer shall not require a motor vehicle dealer to submit to arbitration to resolve a controversy before the controversy arises. The parties may enter into a voluntary agreement to arbitrate a controversy after it arises. Such an agreement shall require that the arbitrator apply Iowa law in resolving the controversy. Either party may appeal a decision of an arbitrator to the district court on the grounds that the arbitrator failed to apply Iowa law.

11. A person who is engaged in the business of selling motor vehicles at retail shall not sell, offer for sale, display, represent, or advertise that the person intends to sell motor vehicles from a location other than the person's place of business, except as provided in section 322.5.

12. A person convicted of a fraudulent practice in connection with selling, bartering, or otherwise dealing in motor vehicles, in this state or any other state, shall not for a period of five years from the date of conviction be an owner, salesperson, officer of a corporation, or dealer representative of a licensed motor vehicle dealer or represent themselves as an owner, salesperson, or dealer representative of a licensed motor vehicle dealer.

13. A manufacturer, distributor, or importer of motor vehicles or agent or representative of such manufacturer, distributor, or importer shall not reduce the amount of compensation for, or disallow a claim for, any of the following if twelve months or more have passed since the claim was submitted to the manufacturer, distributor, or importer or agent or representative thereof:

*a.* Warranty parts, repairs, or service supplied by a motor vehicle dealer.

*b.* Sales or leasing incentives provided to a motor vehicle dealer or to a customer of a motor vehicle dealer including, but not limited to, rebates and discounted interest rates.

The twelve-month limitation shall not apply if a court of competent jurisdiction in this state finds the claim was fraudulent.

14. A manufacturer or importer shall not directly or indirectly be licensed as, own an interest in, operate, or control a motor vehicle dealer. This subsection shall not prohibit any of the following:

*a.* A manufacturer or importer from being licensed as a motor vehicle dealer or owning an interest in, operating, or controlling a motor vehicle dealership for a period not to exceed one year to facilitate transfer of the motor vehicle dealership to a new owner if both of the following apply:

(1) The prior owner transferred the motor vehicle dealership to the manufacturer or importer.

(2) The motor vehicle dealership is continuously offered for sale by the manufacturer or importer upon reasonable terms and conditions.

*b.* A manufacturer or importer from temporarily owning an interest in a motor vehicle dealership for the purpose of enhancing opportunities for persons who lack the financial resources to purchase the motor vehicle dealership without such assistance. A manufacturer or importer may temporarily own an interest in a motor vehicle dealership pursuant to this paragraph only if the manufacturer or importer enters into a contract with a person pursuant to which all of the following apply:

(1) The person operates the motor vehicle dealership.

(2) The person has made a significant financial investment in the motor vehicle dealership and is subject to loss on such investment.

(3) The person has an ownership interest in the motor vehicle dealership.

(4) The person will acquire full ownership of the motor vehicle dealership within a reasonable time under reasonable conditions.

*c.* A manufacturer or importer from owning an interest in, operating, or controlling a person whose primary business is renting motor vehicles and who is licensed as a used motor vehicle dealer.

*d.* A manufacturer of motor homes, as defined in section 321.1, from owning an interest in, operating, or controlling a motor vehicle dealer of the motor homes manufactured by that manufacturer or from being licensed as a motor vehicle dealer only of the motor homes manufactured by that manufacturer.

*e.* A manufacturer from owning a minority interest in an entity that owns and operates motor vehicle dealers, licensed under this chapter or the laws of the jurisdiction in which they are located, of the line-make manufactured by the manufacturer if all of the motor vehicle dealers owned and operated by the entity in this state are motor vehicle dealers of only the line-make manufactured by the manufacturer and if, on January 1, 2000, there were not less than one and not more than three motor vehicle dealers of that line-make licensed under this chapter.

[C39, § 5039.03; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 322.3]

90 Acts, ch 1061, §1; 96 Acts, ch 1090, § 13; 97 Acts, ch 108, §36; 98 Acts, ch 1075, §26; 99 Acts, ch 69, §1; 2000 Acts, ch 1003, §1; 2000 Acts, ch 1232, §66; 2001 Acts, ch 32, §30, 31, 40; 2003 Acts, ch 44, §114; 2006 Acts, ch 1068, §34

#### **322.4 Application for license.**

1. Each person before engaging in this state in the business of selling at retail motor vehicles or representing or advertising that the person is engaged or intends to engage in such business in this state shall file in the office of the department an application for license as a motor vehicle dealer in the state in such form as the department may prescribe, duly verified by oath, which application shall include the following:

*a.* The name of the applicant and the applicant's principal place of business wherever situated, and the following, as appropriate:

(1) If the applicant is an individual, the name or style under which the individual intends to engage in such business.

(2) If the applicant is a copartnership, the name or style under which the copartnership intends to engage in

such business and the name and bona fide address of two partners.

(3) If the applicant is a corporation, the state of incorporation and the name and bona fide address of two officers of the corporation.

*b.* The make or makes of new motor vehicles, if any, which the applicant will offer for sale at retail in this state.

*c.* The location of each place of business within this state to be used by the applicant for the conduct of the applicant's business.

*d.* If the applicant is a party to any contract or agreement or understanding with any manufacturer or distributor of motor vehicles or is about to become a party to such a contract, agreement, or understanding, the applicant shall state the name of each such manufacturer or distributor and the make or makes of new motor vehicles, if any, which are the subject matter of each such contract.

*e.* A statement of the previous history, record, and association of the applicant and if the applicant is a copartnership, of each partner thereof, and if the applicant is a corporation, of each officer and director thereof, which statement shall be sufficient to establish to the department the reputation in business of the applicant.

*f.* A description of the general plan and method of doing business in this state, which the applicant will follow if the license applied for in such application is granted.

*g.* Before the issuance of a motor vehicle dealer's license to a dealer engaged in the sale of vehicles for which a certificate of title is required under chapter 321, the applicant shall furnish a surety bond executed by the applicant as principal and executed by a corporate surety company, licensed and qualified to do business within this state, which bond shall run to the state of Iowa, be in the amount of fifty thousand dollars and be conditioned upon the faithful compliance by the applicant as a dealer with all of the statutes of this state regulating or applicable to the business of a dealer in motor vehicles, and indemnifying any person who buys a motor vehicle from the dealer from any loss or damage occasioned by the failure of the dealer to comply with any of the provisions of chapter 321 and this chapter, including but not limited to the furnishing of a proper and valid certificate of title to the motor vehicle involved in a transaction. The bond shall also indemnify any motor vehicle purchaser from any loss or damage caused by the failure of the dealer to comply with the odometer requirements in section 321.71, regardless of whether the motor vehicle was purchased directly from the dealer. The bond shall be filed with the department prior to the issuance of a license. The aggregate liability of the surety, however, shall not exceed the amount of the bond.

*h.* Proof that the applicant has financial liability coverage as defined in section 321.1, except that such coverage shall be in limits of not less than one hundred thousand dollars because of bodily injury to or death of one person in any one accident and, subject to the limit for one person, three hundred thousand dollars because of bodily injury to or death of two or more persons in any one accident, and fifty thousand dollars because of injury to or destruction of property of others in any one accident.

*i.* If the applicant is applying for a used motor vehicle dealer license, certification that the applicant has met the educational requirements for licensure under section 322.7A. The certification may be transmitted to the department by the education provider in electronic format.

*j.* Such other information touching the business of the applicant as the department may require.

2. For the purpose of investigating the matters contained in such application, the department may withhold the granting of a license for a period not exceeding thirty days.

3. For purposes of this section, "*bona fide address*" means the same as defined in section 321.1.

[C39, § 5039.04; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 322.4]

90 Acts, ch 1057, §1; 94 Acts, ch 1199, §80; 97 Acts, ch 139, §12, 17; 2007 Acts, ch 51, §1; 2007 Acts, ch 143, §22

### **322.5 License fees temporary permits.**

1. The license fee for a motor vehicle dealer for a two-year period or part thereof is the sum of seventy dollars for the licensee's principal place of business in each city or township and an additional twenty dollars for a two-year period or part thereof for each car lot which is in the city or township in which the principal place of business is located and which is not adjacent to that place, to be paid to the department at the time a license is applied for. In case the application is denied, the department shall refund the amount of the fee to the applicant. For the purposes of this section "*adjacent*" means that the principal place of business and each additional lot are adjoining parcels of property.

For the purposes of this subsection, parcels of property shall be deemed to be adjacent if the parcels are only separated by an alley, street, or highway that is not a controlled-access facility.

2. *a.* In addition to selling motor vehicles at the motor vehicle dealer's principal place of business and at car lots, a motor vehicle dealer may do any of the following:

(1) Display new motor vehicles at fairs, vehicle shows, and vehicle exhibitions, upon application for and receipt of a temporary permit issued by the department.

(2) Display, offer for sale, and negotiate sales of new motor vehicles at fair events, as defined in chapter 174, vehicle shows, and vehicle exhibitions, upon application for and receipt of a temporary permit issued by the department. Such activities may only be conducted at fair events, vehicle shows, and vehicle exhibitions that are held in the county of the motor vehicle dealer's principal place of business. A sale of a motor vehicle by a motor vehicle dealer shall not be completed and an agreement for the sale of a motor vehicle shall not be signed at a fair event, vehicle show, or vehicle exhibition. All such sales shall be consummated at the motor vehicle dealer's principal place of business.

*b.* An application for a temporary permit under this subsection shall be made upon a form provided by the department and shall be accompanied by a ten dollar permit fee. The department may issue a temporary permit for a period not to exceed fourteen days. The department may issue multiple consecutive temporary permits.

3. A motor vehicle dealer may also, upon receipt of a temporary permit approved by the department, display and sell classic cars only at county fairs, as defined in chapter 174, vehicle shows, and vehicle exhibitions which have been approved by the department for purposes of classic car display and sale and the provisions of section 322.3, subsection 9, shall not be applicable. Application for a temporary permit shall be made on forms provided by the department and shall be accompanied by a ten dollar permit fee. A permit shall be issued for a single period of not to exceed five days. Not more than three permits may be issued to a motor vehicle dealer in any one calendar year. For purposes of this subsection, "*classic car*" means a motor vehicle fifteen years old or older but less than twenty years old which is primarily of value as a collector's item and not as transportation.

4. A nonresident motor vehicle dealer, who is authorized by a written contract with a manufacturer or distributor of new motor trucks to sell at retail such new motor trucks, may display motor trucks within this state at qualified events approved by the department. The dealer must obtain a temporary permit from the department. An application for a temporary permit shall be made upon a form provided by the department

and shall be accompanied by a ten dollar permit fee. Permits shall be issued for a period not to exceed fourteen days. The department shall issue a temporary permit under this subsection only if the qualified event for which the permit is issued meets all of the following conditions:

- a. The sale of motor vehicles is not allowed during the qualified event.
- b. The qualified event is conducted in a controlled area and is not open to the public generally.
- c. The qualified event generally promotes the motor truck industry.
- d. The qualified event is conducted within the area of responsibility that is specified in the motor vehicle dealer's contract with the manufacturer or distributor.

A temporary permit shall not be issued under this subsection unless the state in which the nonresident motor vehicle dealer is licensed extends by reciprocity similar privileges to a motor vehicle dealer licensed by this state.

5. A manufacturer, distributor, or dealer may, upon receipt of a temporary permit approved by the department, display new ambulances, new fire vehicles, and new rescue vehicles for educational purposes only at vehicle shows and vehicle exhibitions conducted for the express purpose of educating fire and rescue personnel in new technology and techniques for fire fighting and rescue efforts. Application for temporary permits shall be made upon forms provided by the department and shall be accompanied by a ten-dollar permit fee. Permits shall be issued for a single show or exhibition, not to exceed five consecutive days.

A temporary permit shall not be issued under this subsection to a nonresident manufacturer, distributor, or dealer unless the state in which the nonresident manufacturer, distributor, or dealer is licensed extends by reciprocity similar privileges to a manufacturer, distributor, or dealer licensed by this state.

[C39, § **5039.05**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 322.5]

92 Acts, ch 1175, § 13; 93 Acts, ch 45, § 1, 2; 93 Acts, ch 174, § 3, 4; 98 Acts, ch 1058, §1, 2; 99 Acts, ch 13, §23; 2001 Acts, ch 32, §32; 2002 Acts, ch 1063, §38; 2004 Acts, ch 1019, §28; 2005 Acts, ch 3, §63; 2006 Acts, ch 1068, §35, 47, 57

## **Footnotes**

Controlled-access facility, § 306A.2

## **322.6 Denial of license.**

The department may deny the application of any person for a license as a motor vehicle dealer and refuse to issue a license to the person as such, if, after reasonable notice and a hearing, the department determines that such applicant:

1. Has made a material false statement in the application for the license; or
2. Has not complied with the provisions of this chapter or any rules or regulations promulgated by the department thereunder except as otherwise provided; or
3. Is of bad business repute; or
4. Has been guilty of a fraudulent act in connection with selling, bartering, or otherwise dealing in motor vehicles; or



5. Is about to engage in any practice in connection with the sale, barter, or otherwise dealing in motor vehicles, which is fraudulent or in violation of the law; or
6. Has entered into contract or agreement or is about to enter into a contract or agreement with any manufacturer or distributor of motor vehicles which is contrary to any provision of this chapter; or
7. Has a contract or agreement with any manufacturer or distributor of motor vehicles or is about to enter into a contract or agreement with any manufacturer or distributor of motor vehicles, who without just, reasonable, and lawful cause therefor, has terminated within ninety days from the date of application a contract or agreement with a motor vehicle dealer in any county of the state in which the applicant proposes to engage in business;
8. Does not have a place of business within the meaning of this chapter unless applicant is a person referred to in subsection 7 of section 322.3;
9. Has violated any of the provisions of sections 321.78, 321.81, 321.92, 321.97, 321.98, 321.99, 321.100, 539.4, 714.1, and 714.16; or
10. If it has been judicially determined that the licensee has intentionally violated any of the provisions of the Iowa consumer credit code, chapter 537, and the licensee continues to make consumer credit sales, consumer loans or consumer leases in violation of the Iowa consumer credit code, chapter 537.

It shall be sufficient cause for refusal or revocation of a license as a motor vehicle dealer in the case of a partnership or corporation if any member of the partnership or any officer or director of the corporation has committed any act or omission which would be cause for refusing or revoking a license to such person as an individual.

In considering whether or not a contract or agreement between a motor vehicle dealer and a manufacturer or distributor of motor vehicles has been terminated by such manufacturer or distributor without just and reasonable cause therefor, the department shall take into consideration the circumstances existing at the time of such termination, including the amount of business transacted by the motor vehicle dealer pursuant to the contract or agreement and prior to such termination; the investment necessarily made and the obligation necessarily incurred by the motor vehicle dealer in the performance of the dealer's part of such contract; the permanency of such investment; the reasons for such termination by such manufacturer or distributor and the fact that it is injurious to the public welfare for the business of a motor vehicle dealer to be disrupted by termination of such contract without just and reasonable cause.

Whenever the department determines to deny the application of any person for a license as a motor vehicle dealer and refuses to issue a license to the person as such, the department shall enter a final order thereof with its findings relating thereto within thirty days from the date of the hearing thereon.

[C39, § 5039.06; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 322.6]

2003 Acts, ch 44, §114

### **322.7 License of motor vehicle dealer.**

1. If the department grants the application of any person for a license as a motor vehicle dealer, it shall evidence the granting thereof by a final order and shall issue to the person a license in such form as may be prescribed by the department, which license shall include the following:
  - a. If the applicant is an individual or a copartnership, the name or style under which the licensee will engage in such business.

b. The principal place of business of the licensee and location therein of each place wherein the licensee is licensed to carry on such business.

c. The make or makes of new motor vehicles which the licensee is licensed to sell.

2. The instrument evidencing the license or a certified copy thereof provided by the department shall be kept posted conspicuously in the principal office of the licensee and in each place of business maintained and operated by the applicant pursuant to the license in this state.

3. The license of a motor vehicle dealer is valid for a two-year period and expires, unless revoked or suspended, on December 31 of even-numbered years.

4. The motor vehicle dealer license provided for in this chapter shall be renewed upon application in the form and content prescribed by the department and upon payment of the required fee. A used motor vehicle dealer license shall not be renewed for an applicant who is subject to continuing education requirements until the licensee certifies completion of the educational requirements for license renewal under section 322.7A. The certification may be transmitted to the department by the education provider in electronic format. A licensee shall have the month of expiration and the month after the month of expiration to renew the license. A person who fails to renew a license by the end of this time period and desires to hold a license shall file a new license application and pay the required fee.

[C39, § 5039.07; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 322.7]

92 Acts, ch 1175, § 14; 2000 Acts, ch 1016, §20; 2006 Acts, ch 1068, §48, 57; 2007 Acts, ch 51, §2; 2007 Acts, ch 143, §23

### **322.7A Used motor vehicle dealer education program.**

1. An applicant for a license as a used motor vehicle dealer shall complete a minimum of eight hours of prelicensing education program courses pursuant to this section prior to submitting an application to the department.

2. A person seeking renewal of a used motor vehicle dealer license shall complete a minimum of five hours of continuing education program courses over a two-year period pursuant to this section prior to submitting an application for license renewal. However, an applicant for renewal of a used motor vehicle dealer license who has met the prelicensing education requirement under subsection 1 within the preceding twelve months is exempt from the continuing education requirement for license renewal.

3. To meet the requirements of this section, at least one individual who is associated with the used motor vehicle dealer as an owner, principal, corporate officer, director, or member or partner of a limited liability company or limited liability partnership shall complete the education program courses.

4. The Iowa independent automobile dealers association, in consultation with the state department of transportation, the department of education, the attorney general, and the Iowa association of community college trustees, shall develop the prelicensing and continuing education course curricula for the used motor vehicle dealer education program, which shall include but not be limited to examination of federal and state laws applicable to the motor vehicle industry and federal and state regulations pertaining to used motor vehicle dealers. The education program courses shall be provided by community colleges as defined in section 260C.2 or by the Iowa independent automobile dealers association in conjunction with a community college. The department of education shall adopt rules establishing reasonable fees to be charged for the prelicensing education courses and the continuing education courses.

5. A community college shall issue a certificate to each person who successfully completes the preclicensing education program or a continuing education program under this section. The current certificate of completion, or a copy of the certificate, shall be posted conspicuously in the principal office of the licensee.

6. The provisions of this section apply to all used motor vehicle dealers, including but not limited to individuals, corporations, and partnerships, except for the following:

- a. Motor vehicle rental companies having a national franchise.
- b. National motor vehicle auction companies.
- c. Wholesale dealer-only auction companies.
- d. Used car dealerships owned by a franchise motor vehicle dealer.
- e. Banks, credit unions, and savings and loan associations.

7. Each community college providing used motor vehicle dealer education program courses shall transmit a report on the program annually by December 31 to the director of transportation, the director of the department of education, the attorney general, and the president of the Iowa association of community college trustees.

2007 Acts, ch 51, §3

### **322.8 Supplemental statements.**

Each motor vehicle dealer licensee shall promptly file with the department from time to time during the period of the license, statements supplemental to the statements contained in the application for license whenever any change shall occur in the licensee's personnel or in the licensee's plan or method of doing business or in the location of the place or places of business, so that the statements made in the application do, after such change, properly disclose the licensee's status and method and plan of doing business. The supplemental statement shall be in the form prescribed by the department and shall disclose such information as would have been required by this chapter if such changes had occurred prior to the licensee making application for a license.

A supplemental statement shall include any change in the licensee's financial liability coverage.

If the department finds that the changes set forth in the supplemental statement do not violate the provisions of this chapter and it grants to the licensee the privilege of doing business in the manner set forth therein, it shall upon surrender to it of the license of the motor vehicle dealer, issue to the dealer a new license appropriate to the dealer's original application as modified by such supplemental statement.

[C39, § **5039.08**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 322.8]

97 Acts, ch 139, §13, 17

### **322.9 Revocation or suspension of license.**

The department may revoke or suspend the license of a retail motor vehicle dealer if, after notice and hearing by the department of inspections and appeals, it finds that the licensee has been guilty of an act which would be a ground for the denial of a license under section 322.6.

The department may revoke or suspend the license of a retail motor vehicle dealer if, after notice and hearing

by the department of inspections and appeals, it finds that the licensee has been convicted or has forfeited bail on three charges of:

1. Failing upon the sale or transfer of a vehicle to deliver to the purchaser or transferee of the vehicle sold or transferred, a manufacturer's or importer's certificate, or a certificate of title duly assigned, as provided in chapter 321.
2. Failing upon the purchasing or otherwise acquiring of a vehicle to obtain a manufacturer's or importer's certificate, or a certificate of title duly assigned as provided in chapter 321.
3. Failing upon the purchasing or otherwise acquiring of a vehicle to obtain a new certificate of title to such vehicle when and where required in chapter 321.

[C39, § **5039.09**; C46, § 322.9; C50, 54, § 322.9, 322.16; C58, 62, 66, 71, 73, 75, 77, 79, 81, § 322.9]

85 Acts, ch 67, § 38; 89 Acts, ch 273, § 3

### **322.10 Judicial review.**

Judicial review of actions of the department may be sought in accordance with the terms of the Iowa administrative procedure Act, chapter 17A. The petitioner shall file with the clerk a bond for the use of the respondent, with sureties approved by the clerk and in an amount fixed by the clerk. In no case shall the bond be less than fifty dollars. All bonds shall include the condition that the petitioner shall perform the orders of the court.

[C39, § **5039.10**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 322.10]

2003 Acts, ch 44, §114; 2005 Acts, ch 19, §42

### **322.11 Injunctions.**

Whenever the department shall believe from evidence satisfactory to it that any person has or is now violating any provision of this chapter, the department may, in addition to any other remedy, bring an action in the name and on behalf of the state of Iowa against such person and any other person concerned in or in any way participating in or about to participate in practices or acts in violation of this chapter, to enjoin such person and said other person from continuing the same. In any such action, the department may apply for and on due showing be entitled to have issued the court's subpoena, requiring forthwith the appearance of any defendant, the defendant's agent and employees and the production of documents, books, and records as may appear necessary for the hearing of such petition to testify and give evidence concerning the acts or conduct or practices or things complained of in such application for injunction. In said action an order or judgment may be entered, awarding such preliminary or final injunctions as may be proper.

[C39, § **5039.11**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 322.11]

### **322.12 Motor vehicle dealers license fees.**

All fees and funds of whatever character accruing from the administration of this chapter shall be accounted for and paid by the department into the state treasury monthly and shall be placed in the road use tax fund.

[C39, § **5039.12**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 322.12]

### **322.13 Rules.**

1. The department shall have full authority to prescribe reasonable rules for the administration and enforcement of this chapter, in addition hereto and not inconsistent herewith. All rules shall be filed and entered by the department in its office in an indexed, permanent book or record, with the effective date thereof suitably indicated, and such book or record shall be a public document. The department may provide notice of a new rule or regulation by a posting on the department's internet website.

2. The department shall have power to prescribe the forms to be used in connection with the licensing of persons as herein provided.

[C39, § 5039.13; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 322.13]

2004 Acts, ch 1013, §31, 35

### **322.14 Penalties.**

1. A person who violates any of the provisions of this chapter for which a penalty is not specifically provided is guilty of a simple misdemeanor punishable by a fine of not less than two hundred fifty dollars nor more than one thousand five hundred dollars or by imprisonment not to exceed thirty days.

2. Notwithstanding subsection 1, if a provision of chapter 537 is applicable to a retail installment contract and a violation of that provision is subject to a penalty under chapter 537, that penalty shall apply in lieu of a penalty provided in this chapter.

[C39, § 5039.14; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 322.14]

97 Acts, ch 108, §37; 99 Acts, ch 13, §24

### **322.15 Liberal construction.**

All provisions of this chapter shall be liberally construed to the end that the practice or commission of fraud in the sale, barter, or disposition of motor vehicles at retail in this state may be prohibited and prevented, and irresponsible, unreliable, or dishonest persons may be prevented from engaging in the business of selling, bartering, or otherwise dealing in motor vehicles at retail in this state and reliable persons may be encouraged to engage in the business of selling, bartering, and otherwise dealing in motor vehicles at retail in this state.

[C39, § 5039.15; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 322.15]

**322.16** Repealed by 55 Acts, ch 169, § 2. See § 322.9.

### **322.17 Copy of contract to buyer.**

A copy of every retail installment contract shall be furnished to the buyer at the time of the execution of the contract. An acknowledgment by the buyer contained in the body of the retail installment contract of the delivery of a copy thereof shall be conclusive proof of delivery in any action or proceeding by or against any assignee of a retail installment contract.

[C58, 62, 66, 71, 73, 75, 77, 79, 81, § 322.17]

### **322.18 Dual-interest insurance.**

If dual-interest insurance on the motor vehicle is purchased by the holder it shall, within thirty days after execution of the retail installment contract, send or cause to be sent to the buyer a policy or policies or certificate of insurance, written by an insurance company authorized to do business in this state, clearly

setting forth the amount of the premium, the kind or kinds of insurance and the coverages. The buyer shall have the privilege of purchasing such insurance from an agent or broker of the buyer's own selection and of selecting an insurance company acceptable to the holder; but in such case the inclusion of the insurance premium in the retail installment contract shall be optional with the seller. If any insurance is canceled, unearned insurance premium refunds received by the holder shall be credited to the final maturing installments of the contract except to the extent applied toward payment for similar insurance protecting the interests of the buyer and the holder or either of them.

[C58, 62, 66, 71, 73, 75, 77, 79, 81, § 322.18]

### **322.19 Finance charges amount.**

1. Notwithstanding the provisions of any other existing law, a retail installment transaction may include a finance charge not in excess of the following rates:

Class 1. Any new motor vehicle designated by the manufacturer by a year model not earlier than the year in which the sale is made, an amount equivalent to one and three-fourths percent per month simple interest on the declining balance of the amount financed.

Class 2. Any new motor vehicle not in Class 1 and any used motor vehicle designated by the manufacturer by a year model of the same or not more than two years prior to the year in which the sale is made, an amount equivalent to two percent per month simple interest on the declining balance of the amount financed.

Class 3. Any used motor vehicle not in Class 2 and designated by the manufacturer by a year model more than two years prior to the year in which the sale is made, an amount equivalent to two and one-fourth percent per month simple interest on the declining balance of the amount financed.

2. For purposes of this chapter, "*amount financed*" means as defined in section 537.1301. However, notwithstanding section 322.33, subsection 3, the amount financed may also include additional charges for the following, which shall not be included in the finance charge:

*a.* A service contract as defined in section 516E.1.

*b.* Voluntary debt cancellation coverage, whether insurance or debt waiver, which may be excluded from the finance charge under the federal Truth in Lending Act as defined in section 537.1302.

[C58, 62, 66, 71, 73, 75, 77, 79, 81, § 322.19; 82 Acts, ch 1153, § 1, 18(1)]

2003 Acts, ch 8, §22; 2005 Acts, ch 70, §1

### **322.20 Extension of time.**

Sections 537.2503 and 537.3402 notwithstanding, if the holder of a retail installment contract in connection with the purchase or sale of a vehicle, at the request of the buyer, renews the loan or extends the scheduled due date of all or any part of an installment or installments, the holder may restate the amount of installments and the time schedule for paying installments and collect for installments, subject to the renewal or extension, a finance charge on the outstanding declining balance of the amount financed for the period of the extension or renewal. The finance charge on a renewal or extension under this subsection shall not exceed the rate on the original retail installment contract as limited by section 322.19.

[C58, 62, 66, 71, 73, 75, 77, 79, 81, § 322.20]

90 Acts, ch 1088, §1

### **322.21 Remaining balance on trade vehicle.**

The extension of credit by a retail seller to a retail buyer, pursuant to a retail installment contract, of the amount actually paid or to be paid by the retail seller to discharge a purchase-money security interest, as provided in section 554.9103, on a motor vehicle traded in by the retail buyer shall not subject the retail seller to the provisions of chapter 536 or 536A.

99 Acts, ch 13, §25; 2000 Acts, ch 1149, §167, 187

**322.22** Repealed by 74 Acts, ch 1250, § 9.117.

### **322.23 Complaints.**

Any retail buyer having reason to believe that the provisions of this chapter relating to the buyer's installment contract have been violated may file with the department a written complaint setting forth the details of such alleged violation and the department, upon the receipt of such complaint, may inspect the pertinent books, records, letters and contracts of the licensee or other person relating to such specific complaint.

[C58, 62, 66, 71, 73, 75, 77, 79, 81, § 322.23]

### **322.24 Hearing subpoenas.**

The state department of transportation and the department of inspections and appeals may issue subpoenas to compel the attendance of witnesses and the production of documents, papers, books, records, and other evidence in any matter over which the respective department has jurisdiction, control, or supervision pertaining to this chapter.

If a person refuses to obey a subpoena, to give testimony, or to produce evidence as required, a judge of the district court of the state of Iowa in and for Polk county may, upon application and proof of the refusal, make an order awarding process of subpoena, or subpoena duces tecum, out of the court, for the witness to appear before the respective department, to give testimony, and to produce evidence as required. Upon filing the order in the office of the clerk of the district court, the clerk shall issue process of subpoena as directed, under the seal of the court, requiring the person to whom it is directed to appear at the time and place designated.

[C58, 62, 66, 71, 73, 75, 77, 79, 81, § 322.24]

89 Acts, ch 273, § 4

**322.25** Repealed by 73 Acts, ch 208, § 9.

**322.26 Short title.** Repealed by 86 Acts, ch 1237, § 46.

### **322.27 Manufacturer's license.**

A manufacturer, except an alien manufacturer represented by an importer, shall not engage in business as a manufacturer in this state or employ, appoint, or maintain distributors or wholesalers or dealers, without a license as provided in this chapter. However, new motor vehicle dealers may wholesale motor vehicles without an additional license and used motor vehicle dealers may wholesale used motor vehicles without an additional license.

[C66, 71, 73, 75, 77, 79, 81, § 322.27]

2000 Acts, ch 1154, §24

### **322.27A Wholesaler's license.**

A person shall not engage in business as a wholesaler of new motor vehicles in this state without a license as provided in this chapter.

Prior to the issuance of such license, the department, at a minimum, and in addition to any other information the department deems necessary to the application, shall require proof that the applicant has financial liability coverage as defined in section 321.1, except that such coverage shall be in limits of not less than one hundred thousand dollars because of bodily injury to or death of one person in any one accident and, subject to the limit for one person, three hundred thousand dollars because of bodily injury to or death of two or more persons in any one accident, and fifty thousand dollars because of injury to or destruction of property of others in any one accident.

98 Acts, ch 1121, §6, 9; 2006 Acts, ch 1068, §36

### **322.28 Distributor or wholesaler's license.**

A distributor or wholesaler of new motor vehicles shall not sell or offer for sale a new motor vehicle at retail unless licensed as a new motor vehicle dealer. A licensed distributor or wholesaler of a new motor vehicle shall not register or title a new motor vehicle held for sale and shall transfer ownership of a new motor vehicle by assigning the manufacturer's statement of origin for the vehicle.

[C66, 71, 73, 75, 77, 79, 81, § 322.28]

2001 Acts, ch 32, §33, 40

### **322.29 Issuance of license fees.**

1. Application for license shall be made to the department by a manufacturer, distributor, or wholesaler, in a form and containing information as the department requires and shall be accompanied by the required license fee. The license shall be granted or refused within thirty days after application. A license expires, unless sooner revoked or suspended, on December 31 of even-numbered years. A licensee shall have the month of expiration and the month after the month of expiration to renew the license. A person who fails to renew a license by the end of this time period and desires to hold a license shall file a new license application and pay the required fee.

2. License fees for each two-year period or part thereof are as follows:

*a.* For a motor vehicle manufacturer, seventy dollars.

*b.* For a new motor vehicle distributor or wholesaler, forty dollars.

3. A license shall not be issued to a person as a distributor or wholesaler for a new motor vehicle model unless the distributor or wholesaler has written authorization from the manufacturer as a distributor or wholesaler of the motor vehicle model.

4. Upon payment of the license fee as provided in this section, a person who rebuilds new completed motor vehicles by fabricating, altering, adding, or replacing essential parts, components, or equipment for the purpose of building an ambulance, rescue vehicle, fire vehicle, or towing or recovery vehicle as defined in chapter 321 may be issued a license as a wholesaler of new motor vehicles of the make and model rebuilt without written authorization from the manufacturer.



5. Upon payment of the license fee as provided in this section, a person who installs cranes, hook loaders, buckets, aerial ladders, tanks, or special equipment on new completed motor trucks with a gross vehicle weight rating of fourteen thousand five hundred pounds or more may be issued a license as a wholesaler of new motor vehicles of the make and model on which the equipment is installed without written authorization from the manufacturer.

6. Notwithstanding section 322.3, subsection 1, a person licensed as a wholesaler under subsection 4 may be licensed as a used motor vehicle dealer solely for the purpose of dealing in used motor vehicles of the same make and model the person is licensed to wholesale.

[C66, 71, 73, 75, 77, 79, 81, § 322.29]

88 Acts, ch 1047, § 2; 97 Acts, ch 108, §38; 2000 Acts, ch 1016, §21, 22; 2001 Acts, ch 32, §34; 2006 Acts, ch 1068, §37, 4951, 57; 2007 Acts, ch 102, §2

### **322.30 Display.**

The licenses of manufacturers and distributors shall specify the location of the office and must be conspicuously displayed at such location. In case such location be changed, the department shall endorse the change of location on the license without charge if it be within the same municipality. A change of location to another municipality shall require a new license.

[C66, 71, 73, 75, 77, 79, 81, § 322.30]

2000 Acts, ch 1154, §25

### **322.31 Denial of license.**

The department may deny the application of any person for a license as a manufacturer, distributor, or wholesaler, if after reasonable notice and a hearing the department determines that such applicant has violated any provision of this chapter and may revoke or suspend any such license that has been issued if the department shall determine after reasonable notice and a hearing that such licensee has violated any provision of this chapter.

[C66, 71, 73, 75, 77, 79, 81, § 322.31]

97 Acts, ch 108, §39

### **322.32 Construction of applicability to contracts.**

Nothing in this chapter shall be construed to impair the obligations of a contract or to prevent a licensee hereunder from requiring performance of a written contract entered into with another licensee hereunder, nor shall the requirement of such performance constitute a violation of any of the provisions of this chapter.

[C66, 71, 73, 75, 77, 79, 81, § 322.32]

### **322.33 Applicability of the Iowa consumer credit code.**

1. The provisions of the Iowa consumer credit code, chapter 537, shall apply to a consumer credit sale in which a licensed motor vehicle dealer participates or engages, and any violation of that code shall be a violation of this chapter.

2. Article 2, parts 5 and 6, and article 3, sections 537.3203, 537.3206, 537.3209, 537.3304, 537.3305, and

537.3306 shall apply to any credit transaction as defined in section 537.1301, that is a retail installment transaction. For the purpose of applying provisions of the consumer credit code in those transactions, *"consumer credit sale"* shall include a sale for a business purpose.

3. A provision of the Iowa consumer credit code, chapter 537, shall supersede a conflicting provision of this chapter.

[C75, 77, 79, 81, § 322.33]

2003 Acts, ch 44, §114

**322.34** Reserved.

**322.35 Disclosure of manufacturer's suggested price for certain motor vehicles penalty.**

1. A person shall not sell or offer for sale at retail a new car, multipurpose vehicle, or pickup, as those terms are defined in section 321.1, without a label securely affixed to the windshield or side window containing the manufacturer's clear and legible endorsement disclosing the following true and correct information:

*a.* The retail price of the vehicle suggested by the manufacturer.

*b.* The retail delivered price suggested by the manufacturer for each accessory or item of optional equipment, physically attached to the vehicle at the time of its delivery to the retail seller, which is not included within the price of the vehicle as stated pursuant to paragraph "*a*".

*c.* The amount charged, if any, to the retail seller for the transportation of the vehicle to the location at which it is delivered to the retail seller.

*d.* The total of the amounts specified pursuant to paragraphs "*a*", "*b*", and "*c*".

2. A person who violates this section commits a simple misdemeanor. Violation with respect to each vehicle constitutes a separate offense.

86 Acts, ch 1084, §1

**322.36 Motorcycle dealer business hours.**

A person in the business of selling motorcycles under chapter 322D is not required to maintain regular business hours at the dealer's principal place of business or other place of business.

97 Acts, ch 69, §1