

House File 435 - Introduced

HOUSE FILE 435

BY KAUFMANN

A BILL FOR

1 An Act relating to the activities of motor vehicle dealers and
2 wholesalers, and providing penalties.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 321.71, subsections 7 and 9, Code 2015,
2 are amended to read as follows:

3 7. A certificate of title shall not be issued for a motor
4 vehicle less than ~~ten~~ twenty-four model years old which is
5 equipped with an odometer by the manufacturer, unless an
6 odometer statement which is in compliance with federal law and
7 regulations has been made by the transferor of the vehicle and
8 is furnished with the application for certificate of title.
9 The new certificate of title shall record on its face the
10 odometer reading and the word "actual" if the true mileage is
11 known. If the odometer reading is not the true mileage or
12 the true mileage is unknown, the words "not actual" shall be
13 recorded. If the odometer reading is greater than the odometer
14 can mechanically count, the words "exceeds the mechanical
15 limits" shall be recorded. However, a certificate of title may
16 be issued for a motor vehicle to a person who moves into this
17 state if the person acquired ownership of the motor vehicle
18 prior to moving to this state. This subsection does not apply
19 to motor vehicles having a gross vehicle weight rating of more
20 than sixteen thousand pounds.

21 9. An Iowa licensed motor vehicle dealer shall not have in
22 possession as inventory for sale a used motor vehicle acquired
23 by the dealer after the ~~tenth~~ twenty-fourth model year prior
24 to the current registration year, for which the dealer does
25 not possess an odometer statement by the transferor which
26 is in compliance with federal law and regulations unless a
27 certificate of title has been issued for the vehicle in the
28 name of the dealer. Transfer of a new motor vehicle with
29 an ownership document which is a manufacturer's statement of
30 origin requires an odometer statement only when transferred at
31 retail.

32 Sec. 2. Section 321.104, subsection 4, Code 2015, is amended
33 to read as follows:

34 4. To sell, offer for sale, or transfer a motor vehicle,
35 trailer, or semitrailer, except as provided in section 321.47

1 or 321.48, without obtaining a certificate of title in the
2 name of the seller or transferor ~~or without delivering to~~
3 ~~the purchaser or transferee a certificate of title or a~~
4 ~~manufacturer's or importer's certificate duly assigned to the~~
5 ~~purchaser or transferee as provided in this chapter.~~

6 Sec. 3. Section 321.104, Code 2015, is amended by adding the
7 following new subsection:

8 NEW SUBSECTION. 4A. To sell, offer for sale, or transfer a
9 motor vehicle, trailer, or semitrailer, except as provided in
10 section 321.47 or 321.48, without delivering to the purchaser
11 or transferee a certificate of title or a manufacturer's or
12 importer's certificate duly assigned to the purchaser or
13 transferee as provided in this chapter.

14 Sec. 4. Section 322.2, subsection 7, Code 2015, is amended
15 to read as follows:

16 7. "*Engaged in the business*" means doing any of the
17 following acts for the purpose of the sale of motor vehicles
18 at retail: acquiring, selling, exchanging, holding, offering,
19 displaying, brokering, accepting on consignment, conducting a
20 retail auction, or advertising as being engaged in or acting
21 as an agent for the purpose of doing any of those acts. A
22 person selling at retail more than six motor vehicles during
23 a twelve-month period may be presumed to be engaged in the
24 business.

25 Sec. 5. Section 322.2, Code 2015, is amended by adding the
26 following new subsection:

27 NEW SUBSECTION. 20A. "*Salesperson*" means a person employed
28 by a motor vehicle dealer for the purpose of selling motor
29 vehicles.

30 Sec. 6. Section 322.3, Code 2015, is amended by adding the
31 following new subsection:

32 NEW SUBSECTION. 16. A person licensed under this chapter
33 as a motor vehicle dealer or wholesaler shall not sell, loan,
34 rent, lease, or charge a fee for the use of such license to
35 another person for the purpose of allowing that person to

1 sell a motor vehicle for financial gain. A violation of this
2 subsection shall result in the revocation of such license in
3 addition to the penalties set forth in section 322.14.

4 Sec. 7. Section 322.4, subsection 1, paragraph a,
5 subparagraphs (2) and (3), Code 2015, are amended to read as
6 follows:

7 (2) If the applicant is a partnership, the name or style
8 under which the partnership intends to engage in such business
9 and the name and bona fide address of ~~two partners~~ each
10 partner.

11 (3) If the applicant is a corporation, the state of
12 incorporation and the name and bona fide address of ~~two~~
13 ~~officers~~ each officer of the corporation.

14 Sec. 8. Section 322.21, Code 2015, is amended to read as
15 follows:

16 **322.21 Remaining balance on trade vehicle.**

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

24 2. A motor vehicle dealer who takes possession of a motor
25 vehicle from a retail buyer for the purpose of resale upon
26 which there is an outstanding lien or encumbrance shall tender
27 full payment on the outstanding lien or encumbrance within ten
28 business days after the motor vehicle dealer takes possession
29 of the motor vehicle from the retail buyer, provided the retail
30 installment contract has been executed by the retail buyer and
31 the dealer.

32 Sec. 9. NEW SECTION. **322.34 Dealer advertising.**

33 Advertising by a motor vehicle dealer licensed under this
34 chapter shall include the dealership's name, address, and
35 landline telephone number, and may include the dealership's

1 cellular telephone number, if applicable.

2 Sec. 10. Section 322C.2, Code 2015, is amended by adding the
3 following new subsection:

4 NEW SUBSECTION. 8A. "*Salesperson*" means a person employed
5 by a travel trailer dealer for the purpose of selling travel
6 trailers.

7 EXPLANATION

8 The inclusion of this explanation does not constitute agreement with
9 the explanation's substance by the members of the general assembly.

10 This bill relates to the activities of motor vehicle dealers
11 and wholesalers.

12 Current law provides that a motor vehicle dealer shall not
13 have in its possession as inventory for sale, and a certificate
14 of title shall not be issued for, a motor vehicle less than
15 10 model years old which is equipped with an odometer by the
16 manufacturer unless an odometer statement has been made by the
17 transferor of the vehicle. The bill expands this provision
18 to include motor vehicles less than 24 model years old. A
19 violation of this provision is a fraudulent practice.

20 Current law provides that it is a simple misdemeanor
21 punishable by a \$100 fine to sell, offer for sale, or transfer
22 a motor vehicle without obtaining a certificate of title in the
23 name of the seller or transferor. Current law also provides
24 that it is a simple misdemeanor punishable by a \$100 fine
25 to sell, offer for sale, or transfer a motor vehicle without
26 delivering to the purchaser or transferee a certificate of
27 title or a manufacturer's or importer's certificate duly
28 assigned to the purchaser or transferee. The bill separates
29 these provisions into two subsections.

30 The bill alters the definition of "engaged in the business"
31 to include advertising as being engaged in acquiring, selling,
32 exchanging, holding, offering, displaying, brokering, accepting
33 on consignment, or conducting a retail auction of motor
34 vehicles for the purpose of sale at retail. The bill also
35 defines "salesperson" as a person employed by a motor vehicle

1 dealer for the purpose of selling motor vehicles.

2 The bill provides that a person licensed as a motor vehicle
3 dealer or wholesaler shall not sell, loan, rent, lease, or
4 charge a fee for the use of such license to another person for
5 the purpose of allowing that person to sell a motor vehicle for
6 financial gain. A violation of this provision shall result in
7 the revocation of such license in addition to the penalties set
8 forth in Code section 322.14.

9 Current law requires two partners of a partnership and two
10 officers of a corporation to be named on a motor vehicle dealer
11 license application. The bill requires all partners of a
12 partnership and all officers of corporation to be named on a
13 motor vehicle dealer license application.

14 The bill provides that a motor vehicle dealer who takes
15 possession of a motor vehicle from a retail buyer for the
16 purpose of resale upon which there is an outstanding lien
17 or encumbrance shall tender full payment on the outstanding
18 lien or encumbrance within 10 business days after the motor
19 vehicle dealer takes possession of the motor vehicle from the
20 retail buyer, provided the retail installment contract has been
21 executed by the retail buyer and the dealer.

22 The bill further provides that advertising by a motor
23 vehicle dealer shall include the dealership's name, address,
24 and landline telephone number, and may include the dealership's
25 cellular telephone number, if applicable.

26 Under Code section 322.14, a person who violates any of
27 the provisions of Code chapter 322 for which a penalty is
28 not specifically provided is guilty of a simple misdemeanor
29 punishable by a fine of not less than \$250 nor more than
30 \$1,500, or by imprisonment not to exceed 30 days.

31 For purposes of Code chapter 322C relating to travel trailer
32 dealers, manufacturers, and distributors, the bill defines
33 "salesperson" as a person employed by a travel trailer dealer
34 for the purpose of selling travel trailers.