

CHAPTER 135

MOTOR VEHICLE DEALERS

H. F. 218.

AN ACT to license and regulate persons engaged in the business of, at retail, selling, bartering or otherwise dealing in new and used motor vehicles within the state of Iowa; to fix the scope of the regulation in this act provided and prescribe the terms and conditions under which the license provided for in this act may be granted, revoked and denied; to prohibit and declare void as against public policy certain contracts, agreements or understandings between motor vehicle dealers and motor vehicle manufacturers or distributors in connection with the sale and transfer of retail instalment contracts arising from the retail instalment sale of motor vehicles; to prohibit coercion of motor vehicle dealers by manufacturers, distributors or the agents of either of the same; to provide for the creation of a motor vehicle dealer license fee fund; to provide for the enforcement of this act by injunction and by prescribing penalties for the violation of or non-compliance with this act.

Be It Enacted by the General Assembly of the State of Iowa:

1 SECTION 1. Administration. The administration of this act shall
2 be vested in the secretary of state of Iowa.

3 The secretary of state shall appoint the superintendent of the motor
4 vehicle department to perform such duties as the secretary of state
5 shall generally or specifically direct in connection with the administra-
6 tion of this act.

7 The secretary of state may also employ from time to time, such
8 officers, attorneys, clerks and employees as are necessary for the ad-
9 ministration of this act. They shall perform such duties as the secre-
10 tary of state may direct. The amount hereafter expended in any one
11 year to carry out the provisions of this act shall not exceed the revenues
12 derived from the provisions of this act during such year.

13 The secretary of state, superintendent of motor vehicles, or any
14 other person appointed or employed by the secretary of state under
15 the provisions of this act shall be paid, in addition to their salary or
16 compensation when required to travel on official duties, transportation,
17 board, lodging and other traveling expenses necessary and actually
18 incurred by each of them in the performance of the duties required
19 by this act or performed by the direction of the secretary of state.

1 SEC. 2. Definitions. As used in this act and unless a different mean-
2 ing appears from the context:

3 1. "Person" includes any individual, firm, corporation, copartner-
4 ship, joint adventure or association, and the plural as well as the singu-
5 lar number.

6 2. "Department" means the secretary of state.

7 3. "Selling" includes bartering, exchanging or otherwise dealing in

8 4. "At retail" means to dispose of a motor vehicle to a person who
9 may devote it to a consumer use.

1 SEC. 3. Prohibited acts. 1. No person shall engaged* in this state
2 in the business of selling at retail new motor vehicles of any make or
3 represent or advertise that he is engaged or intends to engage in such
4 business in this state unless he is authorized by a contract in writing
5 between himself and the manufacturer or distributor of such make of
6 new motor vehicles to so dispose thereof in this state and unless the

* Note: In accordance with enrolled bill.

7 department has licensed the person as a motor vehicle dealer in this
8 state in motor vehicles of such make and has issued to the person a
9 license in writing as in this act provided.

10 2. No person, other than a licensed dealer in new motor vehicles,
11 shall engage in this state in the business of selling at retail used motor
12 vehicles or represent or advertise that he is engaged or intends to
13 engage in such business in this state unless and until the department
14 has licensed such person as a used motor vehicle dealer in the state
15 and has issued to the person a license in writing as in this act provided.

16 3. Nothing contained in sub-sections 1 and 2 hereof shall be con-
17 strued as requiring the separate licensing of persons employed as sales-
18 men of motor vehicles by a licensee hereunder, but the department is
19 hereby authorized and empowered to make, publish and promulgate
20 such reasonable rules and regulations as it may deem necessary for the
21 proper identification of persons so employed as salesmen by any such
22 licensee.

23 4. No person, who is engaged in the business of selling at retail
24 motor vehicles, shall enter into any contract, agreement or understand-
25 ing, express or implied, with any manufacturer or distributor of any
26 such motor vehicles that he will sell, assign or transfer any retail in-
27 stallment contracts arising from the retail installment sale of such
28 motor vehicles or any one or more thereof only to a designated person
29 or class of persons. Any such condition, agreement, or understanding
30 between any manufacturer or distributor and a motor vehicle dealer
31 in this state is hereby declared to be against the public policy of this
32 state and to be unlawful and void.

33 5. No manufacturer or distributor of motor vehicles or any agent
34 of such manufacturer or distributor, shall terminate or threaten to
35 terminate any contract, agreement or understanding for the sale of
36 new motor vehicles to any motor vehicle dealer in this state, before the
37 expiration date of such contract, agreement or understanding, without
38 just, reasonable and lawful cause therefor or because such motor ve-
39 hicle dealer failed to sell, assign or transfer any retail instalment con-
40 tract arising from the retail sale of such motor vehicles or any one
41 or more of them to a person or a class of persons designated by such
42 manufacturer or distributor.

1 SEC. 4. **Application for license as a motor vehicle dealer.** Each
2 person before engaging in this state in the business of selling at retail
3 motor vehicles or representing or advertising that he is engaged or
4 intends to engage in such business in this state shall file in the office
5 of the department an application for license as a motor vehicle dealer
6 in the state in such form as the department may prescribe, duly veri-
7 fied by oath, which application shall include the following:

8 1. The name of the applicant and his principal place of business
9 wherever situated.

10 2. a. If the applicant is an individual—the name or style under
11 which he intends to engage in such business.

12 b. If the applicant is a co-partnership—the name or style under
13 which such co-partnership intends to engage in such business and the
14 name and post office address of each partner.

15 c. If the applicant is a corporation—the state of incorporation and
16 the name and post office address of each officer and director thereof.

17 3. The make or makes of new motor vehicles, if any which the ap-
18 plicant will offer for sale to retail in this state.

19 4. The location of each place of business within this state to be
20 used by the applicant for the conduct of his business.

21 5. If the applicant is a party to any contract or agreement or under-
22 standing with any manufacturer or distributor of motor vehicles or is
23 about to become a party to such a contract, agreement or understand-
24 ing, the applicant shall state the name of each such manufacturer and
25 distributor and the make or makes of new motor vehicles, if any, which
26 are the subject matter of each such contract.

27 6. A statement of the previous history, record and association of the
28 applicant and if the applicant is a co-partnership, of each partner
29 thereof and if the applicant is a corporation, of each officer and di-
30 rector thereof, which statement shall be sufficient to establish to the
31 department the reputation in business of the applicant.

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

35 8. A financial statement of the applicant showing his true financial
36 condition as of a date not more than six months prior to the date of
37 such application.

38 9. Such other information touching the business of the applicant
39 as the department may require.

1 SEC. 5. **License fee of motor vehicle dealer.** The license fee for a
2 motor vehicle dealer for each calendar year or part thereof shall be
3 the sum of five dollars (\$5.00), to be paid to the department at the
4 time a license is applied for. In case the application is denied, the
5 department shall refund the amount of such fee to the applicant.

1 SEC. 6. **Denial of license.** The department shall deny the applica-
2 tion of any person for a license as a motor vehicle dealer and refuse
3 to issue a license to him as such, if, after reasonable notice and a hear-
4 ing, the department determines that such applicant:

5 1. has made a material false statement in his application for the
6 license; or

7 2. has not complied with the provisions of this act; or

8 3. is of bad business repute; or

9 4. has been guilty of a fraudulent act in connection with selling,
10 bartering or otherwise dealing in motor vehicles; or

11 5. is about to engage in any practice in connection with the sale,
12 barter or otherwise dealing in motor vehicles, which is fraudulent or
13 in violation of the law; or

14 6. has entered into contract or agreement or is about to enter into
15 a contract or agreement with any manufacturer or distributor of
16 motor vehicles which is contrary to any provision of this act; or

17 7. has a contract or agreement with any manufacturer or distribu-
18 tor of motor vehicles or is about to enter into a contract or agreement
19 with any manufacturer or distributor of motor vehicles, who without
20 just, reasonable and lawful cause therefor, has terminated within
21 ninety days from the date of application a contract or agreement with
22 a motor vehicle dealer in any county of the state in which the ap-
23 plicant proposes to engage in business.

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

29 In considering whether or not a contract or agreement between a
30 motor vehicle dealer and a manufacturer or distributor of motor ve-
31 hicles has been terminated by such manufacturer or distributor with-
32 out just and reasonable cause therefor, the department shall take
33 into consideration the circumstances existing at the time of such
34 termination, including the amount of business transacted by the motor
35 vehicle dealer pursuant to the contract or agreement and prior to
36 such termination; the investment necessarily made and the obliga-
37 tion necessarily incurred by the motor vehicle dealer in the perform-
38 ance of his part of such contract; the permanency of such investment;
39 the reasons for such termination by such manufacturer or distributor
40 and the fact that it is injurious to the public welfare for the business
41 of a motor vehicle dealer to be disrupted by termination of such con-
42 tract without just and reasonable cause.

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

1 **SEC. 7. License of motor vehicle dealer.** 1. If the department
2 grants the application of any person for a license as a motor vehicle
3 dealer, it shall evidence the granting thereof by a final order and
4 shall issue to the person a license in such form as may be prescribed
5 by the department, which license shall include the following:

6 A. The name of the person licensed.

7 B. If the applicant is an individual or a co-partnership—the name
8 or style under which the licensee will engage in such business and if
9 a co-partnership, the name and address of each partner.

10 C. The principal place of business of the licensee and location there-
11 in of each place wherein the licensee is licensed to carry on such busi-
12 ness.

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

15 2. The instrument evidencing the license or a certified copy thereof
16 provided by the department shall be kept posted conspicuously in the
17 principal office of the licensee and in each place of business main-
18 tained and operated by the applicant pursuant to the license in this
19 state.

20 3. The license of a motor vehicle dealer shall expire and terminate,
21 unless sooner revoked or suspended, at the end of the calendar year
22 in which it is granted.

23 4. The license provided for in this act shall be renewed annually in
24 the same manner and on payment of the same fee as in the case of the
25 original license. Such renewal shall take effect on the first day of
26 January of each year.

1 **SEC. 8. Supplemental statements.** Each licensee shall promptly
2 file with the department from time to time during the period of the

3 license, statements supplemental to the statements contained in his
4 application for license whenever any change shall occur in his per-
5 sonnel or in his plan or method of doing business or in the location of
6 his place or places of business, so that the statements made in the ap-
7 plication do, after such change, properly disclose the licensee's status
8 and method and plan of doing business. The supplemental statement
9 shall be in the form prescribed by the department and shall disclose
10 such information as would have been required by this act if such
11 changes had occurred prior to the licensee making application for a
12 license.

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

1 **SEC. 9. Revocation of license.** The department is hereby author-
2 ized to revoke or suspend the license of any licensee if, after notice
3 and hearing, it finds that such licensee has been guilty of any act
4 which would have been a ground for the denial of a license under
5 Section 7 of this act.

1 **SEC. 10. Appeals.** 1. An appeal may be taken by any person inter-
2 ested from any final order of the department to the district court of
3 the county in which he resides or in which his principal place of busi-
4 ness is located, within thirty days after he shall have received notice
5 from the department of such order.

6 2. The appeal shall be taken by a written notice to the department
7 and served as an original notice. When said notice is so served it
8 shall, with the return thereon, be filed in the office of the clerk of
9 said district court, and docketed as other cases, with the appellant
10 as plaintiff and the department as defendant. The plaintiff shall
11 file with such clerk a bond for the use of the defendant, with sureties
12 approved by such clerk and in an amount fixed by him, provided in
13 no case shall the bond be less than fifty dollars, conditioned that the
14 plaintiff shall perform the orders of the court.

15 3. The court shall hear the appeal in equity, determine anew all
16 questions submitted to it on appeal from the order of the department,
17 and render its decree thereon. An appeal to the supreme court of
18 this state may be taken as in other equitable actions.

1 **SEC. 11. Injunctions.** Whenever the department shall believe from
2 evidence satisfactory to it that any person has or is now violating any
3 provision of this act, the department may, in addition to any other
4 remedy, bring an action in the name and on behalf of the state of Iowa
5 against such person and any other person concerned in or in any way
6 participating in or about to participate in practices or acts in viola-
7 tion of this act, to enjoin such person and said other person from
8 continuing the same. In any such action, the department may apply
9 for and on due showing be entitled to have issued the court's subpoena,
10 requiring forthwith the appearance of any defendant, his agent and
11 employees and the production of documents, books and records as
12 may appear necessary for the hearing of such petition to testify and

13 give evidence concerning the acts or conduct or practices or things
14 complained of in such application for injunction. In said action an
15 order or judgment may be entered, awarding such preliminary or
16 final injunctions as may be proper.

1 **SEC. 12. Motor vehicle dealers license fee fund.** All fees and
2 funds of whatever character accruing from the administration of this
3 act shall be accounted for and paid by the department into the state
4 treasury monthly and shall constitute a separate and distinct fund
5 which shall be known as the "Motor Vehicle Dealers License Fee
6 Fund". All expenses incurred and all compensation paid by the de-
7 partment in the administration of this act shall be paid out of said
8 fund in the same manner as other state expenses and compensation
9 are paid. Any amount in such fund in excess of ten thousand dollars
10 (\$10,000.00) at the end of any fiscal year shall be credited to the state
11 general fund.

12 In connection with the enforcement of this act, it is hereby made
13 the duty of the attorney general of the state of Iowa to render all
14 necessary assistance to the department upon its request in the enforce-
15 ment thereof and to that end, the attorney general shall employ such
16 additional legal counsel as shall be necessary to adequately and fully
17 perform such service under the direction of the department as the
18 demands of such department shall require and any expenses so in-
19 curred by the attorney general for additional legal counsel as afore-
20 said shall be chargeable against and paid out of the fund herein pro-
21 vided.

1 **SEC. 13. Rules and regulations.** 1. The department shall have full
2 authority to prescribe reasonable rules and regulations for the ad-
3 ministration and enforcement of this act, in addition hereto and not
4 inconsistent herewith. All rules and regulations shall be filed and
5 entered by the department in its office in an indexed, permanent book
6 or record, with the effective date thereof suitably indicated, and such
7 book or record shall be a public document. Whenever a new rule or
8 regulation is adopted by the department, a copy of the same shall be
9 mailed by it to each licensee hereunder, and published in an Iowa
10 newspaper having a general circulation in this state.

11 2. The department shall have power to prescribe the forms to be
12 used in connection with the licensing of motor vehicle dealers as here-
13 in provided.

1 **SEC. 14. Penalties.** Any person violating any of the provisions of
2 this act where a penalty is not specifically provided for shall be deemed
3 guilty of a misdemeanor and upon conviction thereof shall be punished
4 by a fine not exceeding one hundred dollars (\$100.00) or thirty (30)
5 days in jail.

6 1. Any person violating any provisions of subsections 1, 2 and 4
7 of section 3, by a fine in any sum not exceeding five hundred dollars
8 (\$500.00) or by imprisonment in the county jail for any determinate
9 period not exceeding six months, or by both such fine and imprison-
10 ment.

11 2. For the violation of any provision of subsection 5 of section 3, by
12 a fine in any sum not exceeding five thousand dollars (\$5,000.00) or
13 by imprisonment in the county jail for any determinate period not
14 exceeding one year, or by both such fine and imprisonment.

1 **SEC. 15. Liberal construction.** All provisions of this act shall be
 2 liberally construed to the end that the practice or commission of fraud
 3 in the sale, barter or disposition of motor vehicles at retail in this state
 4 may be prohibited and prevented, and irresponsible, unreliable or dis-
 5 honest persons may be prevented from engaging in the business of
 6 selling, bartering or otherwise dealing in motor vehicles at retail in
 7 this state and reliable persons may be encouraged to engage in the
 8 business of selling, bartering and otherwise dealing in motor vehicles
 9 at retail in this state.

1 **SEC. 16. Captions.** No caption of any section of this act shall in
 2 any way affect the interpretation of this act or any part thereof.

1 **SEC. 17. Severability clause.** If any provision of this act or the
 2 application thereof to any person or circumstances is held invalid, such
 3 invalidity shall not affect other provisions or applications of the act
 4 which can be given effect without the invalid provision or application
 5 and to this end the provisions of this act are declared to be severable.

1 **SEC. 18. Short title.** This act may be cited as the motor vehicle
 2 dealers licensing act.

House File 218. Approved May 1, 1937.

CHAPTER 136

MOTOR VEHICLE FUEL TAX

S. F. 321

AN ACT to amend chapter two hundred fifty-one-f one (251-f1), code of Iowa, 1935, by amending section five thousand ninety-three-f four (5093-f4) and section five thousand ninety-three-f thirty-one (5093-f31) of such chapter; to provide for the posting of prices of motor vehicle fuel and fuel oil by every distributor and person selling motor vehicle fuel or fuel oil; making it unlawful for any distributor or person selling motor vehicle fuel or fuel oil to deviate from such posted prices by means of rebates, discounts, premiums or otherwise; to provide that price placards may not be changed for a period of twenty-four hours after posting thereof; and to provide that the deviation from the posted price shall constitute a misdemeanor; and to provide a penalty therefor.

Be It Enacted by the General Assembly of the State of Iowa:

That chapter two hundred fifty-one-f one (251-f1), code of Iowa, 1935, be amended as follows:

1 **SECTION 1.** By striking from section five thousand ninety-three-f
 2 four (5093-f4) the last paragraph thereof and inserting in lieu there-
 3 of the following:
 4 “Every distributor and other person selling motor vehicle fuel or
 5 fuel oil in this state, at wholesale or at retail, shall keep posted in
 6 a conspicuous place most accessible to the public at their place or
 7 places of business, including bulk plants, service stations, garages
 8 and motor vehicle transports, a placard showing in words and/or
 9 figures of the same height and size but not less than one inch in height
 10 or size, the price per gallon of each grade of motor vehicle fuel and
 11 fuel oil offered for sale, the amount of state license fee per gallon
 12 thereon, the federal excise tax per gallon thereon, and the total