

**First Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 19-0942.02 Jery Payne x2157

SENATE BILL 19-249

SENATE SPONSORSHIP

Gonzales and Scott,

HOUSE SPONSORSHIP

(None),

Senate Committees

Business, Labor, & Technology

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE LICENSING OF A BUSINESS SELLING USED MOTOR**
102 **VEHICLES THAT THE BUSINESS USED FOR ITS PURPOSES.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

Current law requires a business to be licensed as a used motor vehicle dealer when selling more than 20 vehicles, which were used for business purposes, over a 2-year period. The bill creates a new type of license for a business to sell its used vehicles if the vehicle sales do not exceed 20% of the business's gross revenue.

The bill also authorizes the motor vehicle dealer board to

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

discipline a person holding this type of license for the following:

- ! A material misstatement in an application;
- ! Violating several classes of laws dealing with motor vehicle sales and commerce;
- ! Having been convicted of certain crimes;
- ! Various types of fraud;
- ! Failing to perform a written agreement;
- ! Failure to make the required disclosures;
- ! Misleading or inaccurate advertising;
- ! Representing or selling as new a used motor vehicle;
- ! Selling a defective vehicle unless sold as a tow-away and not to be driven; and
- ! Failing to notify a prospective buyer of the acceptance or rejection of a motor vehicle purchase within a reasonable period when on a finance sale or a consignment sale.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 44-20-108, **add** (1)(i)
3 as follows:

4 **44-20-108. Classes of licenses.** (1) The following classes of
5 licenses are issued under this part 1:

6 (i) IF THE SALES VALUE OF ALL THE MOTOR VEHICLES SOLD DOES
7 NOT EXCEED TWENTY PERCENT OF THE BUSINESS'S GROSS REVENUE, THE
8 BUSINESS DISPOSAL LICENSE PERMITS A BUSINESS TO SELL USED MOTOR
9 VEHICLES THAT:

- 10 (I) HAVE BEEN OWNED FOR MORE THAN ONE YEAR;
- 11 (II) HAVE BEEN USED EXCLUSIVELY FOR BUSINESS PURPOSES;
- 12 (III) ARE TITLED IN THE NAME OF THE BUSINESS; AND
- 13 (IV) FOR WHICH ALL RELATED TAXES HAVE BEEN PAID.

14 **SECTION 2.** In Colorado Revised Statutes, 44-20-118, **amend**
15 (1) and (6) as follows:

16 **44-20-118. Application - prelicensing education -**
17 **fingerprint-based background check - rules.** (1) Application for a

1 motor vehicle dealer's, motor vehicle salesperson's, used motor vehicle
2 dealer's, wholesale motor vehicle auction dealer's, ~~or~~ wholesaler's, OR
3 BUSINESS DISPOSAL license ~~shall~~ MUST be made to the board.

4 (6) All persons applying for a motor vehicle dealer's license, a
5 used motor vehicle dealer's license, a wholesaler's license, a motor vehicle
6 auctioneer's license, ~~or~~ a motor vehicle salesperson's license, ~~shall~~ OR A
7 BUSINESS DISPOSAL LICENSE MUST file with the board a good and
8 sufficient instrument in writing in which the applicant ~~shall appoint~~
9 APPOINTS the secretary of the board as the true and lawful agent of the
10 applicant upon whom all process may be served in any action ~~which may~~
11 ~~thereafter be~~ commenced against the applicant arising out of any claim for
12 damages suffered by ~~any firm, A person association, or corporation~~
13 reason of ~~the~~ A violation ~~of~~ BY the applicant ~~of any of the terms and~~
14 ~~provisions~~ of this part 1 or any condition of the applicant's bond.

15 **SECTION 3.** In Colorado Revised Statutes, 44-20-121, **add** (6.5)
16 as follows:

17 **44-20-121. Licenses - grounds for denial, suspension, or**
18 **revocation.** (6.5) A BUSINESS DISPOSAL LICENSE MAY BE DENIED,
19 SUSPENDED, OR REVOKED ON THE FOLLOWING GROUNDS:

20 (a) MAKING A MATERIAL MISSTATEMENT IN AN APPLICATION FOR
21 A LICENSE;

22 (b) VIOLATING THIS PART 1 OR A RULE PROMULGATED BY THE
23 BOARD UNDER THIS PART 1;

24 (c) HAVING BEEN CONVICTED OF OR PLED NOLO CONTENDERE TO
25 A FELONY, A CRIME UNDER ARTICLE 3, 4, OR 5 OF TITLE 18, OR ANY LIKE
26 CRIME UNDER FEDERAL LAW OR THE LAW OF ANOTHER STATE. A CERTIFIED
27 COPY OF THE JUDGMENT OF CONVICTION BY A COURT OF COMPETENT

1 JURISDICTION IS CONCLUSIVE EVIDENCE OF THE CONVICTION IN A HEARING
2 HELD UNDER THIS ARTICLE 20.

3 (d) DEFRAUDING A BUYER, SELLER, MOTOR VEHICLE SALESPERSON,
4 OR FINANCIAL INSTITUTION TO THE PERSON'S DAMAGE;

5 (e) INTENTIONAL OR NEGLIGENT FAILURE TO PERFORM ANY
6 WRITTEN AGREEMENT WITH A BUYER OR SELLER;

7 (f) MAKING A FRAUDULENT OR ILLEGAL SALE, TRANSACTION, OR
8 REPOSSESSION;

9 (g) WILLFUL MISREPRESENTATION OR CIRCUMVENTION OF,
10 CONCEALMENT OF, OR FAILURE TO DISCLOSE ANY OF THE MATERIAL
11 PARTICULARS REQUIRED TO OR THE NATURE OF ANY OF THE MATERIAL
12 PARTICULARS REQUIRED TO BE STATED OR FURNISHED TO THE BUYER;

13 (h) INTENTIONALLY PUBLISHING OR CIRCULATING AN
14 ADVERTISEMENT THAT IS MISLEADING OR INACCURATE IN ANY MATERIAL
15 PARTICULAR OR THAT MISREPRESENTS A PRODUCT SOLD BY OR FURNISHED
16 BY A LICENSED DEALER;

17 (i) KNOWINGLY SELLING, ACQUIRING, OR DISPOSING OF A STOLEN
18 MOTOR VEHICLE;

19 (j) WILLFULLY VIOLATING A STATE OR FEDERAL LAW GOVERNING
20 COMMERCE OR MOTOR VEHICLES OR A RULE GOVERNING COMMERCE OR
21 MOTOR VEHICLES PROMULGATED BY ANY LICENSING OR REGULATING
22 AUTHORITY GOVERNING MOTOR VEHICLES IF THE ACT CONSTITUTING THE
23 VIOLATION DIRECTLY AND NECESSARILY INVOLVES COMMERCE OR MOTOR
24 VEHICLES;

25 (k) REPRESENTING OR SELLING AS NEW A MOTOR VEHICLE THAT
26 THE DEALER OR SALESPERSON KNOWS:

27 (I) HAS BEEN USED FOR AND OPERATED FOR DEMONSTRATION

- 1 PURPOSES; OR
- 2 (II) IS A USED MOTOR VEHICLE;
- 3 (l) VIOLATING A STATE OR FEDERAL STATUTE, RULE, OR
- 4 REGULATION DEALING WITH ODOMETERS;
- 5 (m) SELLING TO A RETAIL CUSTOMER A MOTOR VEHICLE THAT IS
- 6 NOT EQUIPPED AS REQUIRED BY OR IN PROPER CONDITION AND
- 7 ADJUSTMENT AS REQUIRED BY PART 2 OF ARTICLE 4 OF TITLE 42 UNLESS
- 8 THE VEHICLE IS SOLD AS A TOW-AWAY AND NOT TO BE DRIVEN;
- 9 (n) COMMITTING A FRAUDULENT INSURANCE ACT UNDER SECTION
- 10 10-1-128; OR
- 11 (o) FAILING TO NOTIFY A PROSPECTIVE BUYER OF THE ACCEPTANCE
- 12 OR REJECTION OF A MOTOR VEHICLE PURCHASE ORDER AGREEMENT WITHIN
- 13 A REASONABLE PERIOD, AS DETERMINED BY THE BOARD, WHEN THE
- 14 LICENSEE IS WORKING WITH THE PROSPECTIVE BUYER ON A FINANCE SALE
- 15 OR A CONSIGNMENT SALE.

16 **SECTION 4. Act subject to petition - effective date.** This act

17 takes effect at 12:01 a.m. on the day following the expiration of the

18 ninety-day period after final adjournment of the general assembly (August

19 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a

20 referendum petition is filed pursuant to section 1 (3) of article V of the

21 state constitution against this act or an item, section, or part of this act

22 within such period, then the act, item, section, or part will not take effect

23 unless approved by the people at the general election to be held in

24 November 2020 and, in such case, will take effect on the date of the

25 official declaration of the vote thereon by the governor.