

MICHIGAN VEHICLE CODE (EXCERPT)
Act 300 of 1949

***** 257.248.amended THIS AMENDED SECTION IS EFFECTIVE JANUARY 23, 2023 *****

257.248.amended Dealer license; investigation; report; bond or bond renewal certificate; dealer plates; stipulation as to service of process; prohibited conduct; application; supplemental dealer license; eligible used dealer license; classification; requirements applicable to issuance, renewal, and expiration; conduct not requiring separate or supplemental license.

Sec. 248. (1) The secretary of state shall not grant a dealer license under this section until the secretary conducts an investigation of the applicant's qualifications under this act, except that this subsection does not apply to a license renewal. The secretary of state shall conduct the investigation within 15 days after receiving the application and prepare a report on the investigation.

(2) An applicant for a new vehicle dealer or a used or secondhand vehicle dealer or broker license shall include a properly executed bond or a bond renewal certificate, approved by the secretary of state, with the license application. If a renewal certificate is used, the bond is considered renewed for each succeeding year in the same amount and with the same effect as an original bond. The bond must be in the amount of \$25,000.00. The bond must indemnify or reimburse a purchaser, seller, lessee, financing agency, or governmental agency for monetary loss caused through fraud, cheating, or misrepresentation in the conduct of the vehicle business whether the fraud, cheating, or misrepresentation was made by the dealer or by an employee, agent, or salesperson of the dealer. The surety shall make indemnification or reimbursement for a monetary loss only after a judgment based on fraud, cheating, or misrepresentation is entered in a court of record against the licensee or a final order that the licensee has engaged in fraud, cheating, or misrepresentation is issued by the secretary of state after an administrative hearing. The bond must also indemnify or reimburse the state for any sales tax deficiency as provided in the general sales tax act, 1933 PA 167, MCL 205.51 to 205.78, or use tax deficiency as provided in the use tax act, 1937 PA 94, MCL 205.91 to 205.111, for the year in which the bond is in force. The surety shall make indemnification or reimbursement only after a final judgment is entered in a court of record against the licensee or a final order is issued by the secretary of state after an administrative hearing. A dealer or applicant that provides proof that is satisfactory to the secretary of state that a bond similar to the bond required by this subsection is executed and in force is exempt from the bond requirements of this subsection. The aggregate liability of the surety must not exceed the sum of the bond. The surety on the bond may cancel the bond by giving notice in writing to the secretary of state of the cancellation at least 30 days before the effective date of the cancellation and is not liable for a breach of condition occurring after the effective date of the cancellation.

(3) An applicant for a new vehicle dealer or a used or secondhand vehicle dealer license shall apply for not less than 2 dealer plates under section 245 and shall include with the application the proper fee for those plates under section 803.

(4) As a condition precedent to the granting of a license, a dealer must file with the secretary of state an irrevocable written stipulation, authenticated by the applicant, stipulating and agreeing that legal process affecting the dealer, served on the secretary of state or a deputy of the secretary of state, has the same effect as if personally served on the dealer. This appointment remains in force as long as the dealer has any outstanding liability within this state.

(5) A person shall not carry on or conduct the business of buying, selling, brokering, leasing, negotiating a lease, or dealing in 5 or more vehicles of a type required to be titled under this act in a 12-month period unless the person obtains a dealer license from the secretary of state authorizing the carrying on or conducting of that business. A person shall not carry on or conduct the business of buying, selling, brokering, leasing, negotiating a lease, or dealing in 5 or more distressed, late model vehicles or salvageable parts to 5 or more of those vehicles in a 12-month period unless the person obtains a used or secondhand vehicle parts dealer, an automotive recycler, or a salvage pool license from the secretary of state or is an insurance company admitted to conduct business in this state. A person shall not carry on or conduct the business of buying 5 or more vehicles in a 12-month period to process into scrap metal or store or display 5 or more vehicles in a 12-month period as an agent or escrow agent of an insurance company unless the person obtains a dealer license from the secretary of state. A vehicle scrap metal processor that does not purchase vehicles or salvageable parts from unlicensed persons is not required to obtain a dealer license. A person from another state shall not purchase, sell, or otherwise deal in distressed, late model vehicles or salvageable parts unless the person obtains a foreign salvage vehicle dealer license from the secretary of state under section 248b. A person, including a dealer, shall not purchase or acquire a distressed, late model vehicle or a salvageable part through

a salvage pool, auction, or broker without a license as a salvage vehicle agent. The secretary of state shall investigate and seek prosecution, if necessary, of persons allegedly conducting a business without a license.

(6) The application for a dealer license must be in the form prescribed by the secretary of state and signed by the applicant. In addition to any other information required by the secretary of state, the application must include all of the following:

(a) The name of the applicant.

(b) The location of the applicant's established place of business in this state, together with written verification from the appropriate governing or zoning authority that the established place of business meets all applicable municipal and zoning requirements.

(c) The name under which the dealer will conduct business.

(d) If the business is a corporation, the state of incorporation.

(e) If the business is a sole proprietorship or partnership, the name, address, and date of birth of each owner or partner; if the business is a corporation, the name, address, and date of birth of each of the principal officers.

(f) The county in which the applicant will conduct business and the address of each place of business in that county.

(g) If the dealer's business is the sale of new vehicles, the make or makes of those vehicles. Each new vehicle dealer shall send with the application for license a certification that the dealer holds a bona fide contract to act as factory representative, factory distributor, or distributor representative to sell at retail (the make of vehicle to be sold) and that the contract meets the requirements for a dealer agreement under the motor vehicle franchise act, 1981 PA 118, MCL 445.1561 to 445.1583.

(h) A statement of the previous history, record, and associations of the applicant and of each owner, partner, officer, or director of the applicant. The statement must be sufficient to establish to the satisfaction of the secretary of state the business reputation and character of the applicant.

(i) A statement showing whether the applicant has previously applied for a license, the result of the application, and whether the applicant has ever been the holder of a dealer license that was revoked or suspended.

(j) If the applicant is a corporation or partnership, a statement showing whether a partner, employee, officer, or director has been refused a license or has been the holder of a license that was revoked or suspended.

(k) If the application is for a used or secondhand vehicle parts dealer or an automotive recycler, all of the following:

(i) Evidence that the applicant maintains or will maintain an established place of business.

(ii) Evidence that the applicant maintains or will maintain a police book and vehicle parts purchase and sales and lease records as required under this act.

(iii) Evidence of worker's compensation insurance coverage for employees classified under the North American Industry Classification System number 42114, entitled "motor vehicle parts (used) merchant wholesalers" or under the National Council on Compensation Insurance classification code number 3821, entitled "automobile dismantling", if applicable.

(l) A certification that neither the applicant nor another person named on the application is acting as the alter ego of any other person or persons in seeking the license. For the purpose of this subdivision, "alter ego" means a person that acts for and on behalf of, or in the place of, another person for purposes of obtaining a vehicle dealer license.

(m) A certification that the applicant if the applicant is an individual or sole proprietorship, the partners of the applicant if the applicant is a partnership, the principal officers of the applicant if the applicant is a corporation, or any other individual who is responsible for the daily operations of the dealership, as applicable, has reviewed and understands the requirements of this act, the rules promulgated under this act, the dealer manual published by the secretary of state, and any other applicable material provided by the department.

(n) For an application submitted by or on behalf of an eligible used vehicle dealer for an original license, a certification that within the 6-month period preceding the date of the application, the applicant, the partners of the applicant, or the principal officers of the applicant, as applicable, completed the dealer training program described in section 248l(2). This subdivision does not apply to an application to renew the license of an eligible used vehicle dealer and does not apply to any original license that was granted to an eligible used vehicle dealer before, and that is valid on, March 20, 2019. As used in this subdivision and subdivision (o), "eligible used vehicle dealer" means that term as defined in section 248l.

(o) For an application submitted by or on behalf of an eligible used vehicle dealer for an original or renewal license, a certification that each retail sales location of that dealer has an employee that has

completed the dealer training program required under section 248l(3) or (5), as applicable.

(7) A person shall apply separately for a dealer license for each county in which business is to be conducted. Before moving 1 or more places of business or opening an additional place of business, a dealer shall apply to the secretary of state for and obtain a supplemental dealer license. The secretary of state shall not charge a fee for a supplemental dealer license and shall issue a supplemental dealer license only for a location, including a tent, temporary stand, or any temporary quarters, that does not meet the definition of an established place of business, within the county in which the dealer's established place of business is located. A dealer license entitles the dealer to conduct the business of buying, selling, leasing, and dealing in vehicles or salvageable parts in the county covered by the license. The dealer license also entitles the dealer to conduct at any other licensed dealer's established place of business in this state only the business of buying, selling, leasing, or dealing in vehicles at wholesale.

(8) The secretary of state shall classify and differentiate vehicle dealers according to the type of activity they perform. A dealer shall not engage in activities of a particular classification as provided in this act unless the dealer is licensed in that classification. An applicant may apply for a dealer license in 1 or more of the following classifications:

(a) New vehicle dealer.

(b) Used or secondhand vehicle dealer. A used or secondhand vehicle dealer may be eligible for a mobility dealer endorsement under section 248k.

(c) Used or secondhand vehicle parts dealer.

(d) Vehicle scrap metal processor.

(e) Vehicle salvage pool operator.

(f) Distressed vehicle transporter.

(g) Broker.

(h) Foreign salvage vehicle dealer.

(i) Automotive recycler.

(j) Wholesaler.

(9) All of the following apply to the issuance, renewal, and expiration of a dealer license under this section:

(a) A dealer license expires on December 31 of the last year that the license is valid.

(b) A dealer shall renew its dealer license annually. The secretary of state may renew a dealer license for a period of not more than 4 years if the secretary receives a renewal application and payment of the fee required under section 807.

(c) To renew a dealer license, the dealer shall file an application for renewal with the secretary of state at least 30 days before the expiration of its current license.

(d) If a dealer has not renewed its dealer license on or before the expiration date of its current license, the secretary of state within 10 business days after that expiration date must notify the dealer that the secretary of state has not received its renewal application. The notice must include the amount of the late renewal fee.

(e) A dealer may continue to operate its dealer business after the expiration of its dealer license, pending approval of the renewal application, if the renewal application is delivered in person or mailed to the secretary of state on or before the expiration date of the license. If requested by the department, a dealer that mails an application under this subdivision must provide proof of mailing of the renewal application that is satisfactory to the department.

(f) If an application to renew a dealer license is filed with the secretary of state after the expiration of that license, the dealer may operate its dealer business beginning on the date on which the application is delivered or mailed to the secretary of state, pending approval of the renewal application. If requested by the department, a dealer that mails an application under this subdivision must provide proof of mailing of the renewal application that is satisfactory to the department. A dealer shall pay a renewal fee equal to 150% of the normal renewal fee for a renewal described in this subdivision.

(g) If a dealer files an application to renew a dealer license more than 30 days after the expiration of that license, the dealer is considered a new applicant for a dealer license under this section.

(h) The secretary of state shall deposit the late renewal fees collected under subdivisions (d) and (f) in the transportation administration collection fund created in section 810b.

(i) The secretary of state shall not renew a dealer's license if the applicant has not bought or sold more than 5 vehicles during the 12 months preceding the dealer's renewal application.

(10) A dealer may conduct the business of buying, selling, or dealing in motor homes, trailer coaches, trailers, or pickup campers at a recreational vehicle show conducted at a location in this state without obtaining a separate or supplemental license under subsection (7) if all of the following apply:

(a) The dealer is licensed as a new vehicle dealer or used or secondhand vehicle dealer.

(b) The duration of the recreational vehicle show is not more than 14 days.

(c) Not less than 14 days before the beginning date of the recreational vehicle show, the show producer notifies the secretary of state, in a manner and form prescribed by the secretary of state, that the recreational vehicle show is scheduled, the location, dates, and times of the recreational vehicle show, and the name, address, and dealer license number of each dealer participating in the recreational vehicle show.

(11) Notwithstanding section 235, a dealer may advertise or display to the public a vehicle that the dealer has acquired or that is available to the dealer directly from the manufacturer or distributor or the manufacturer's or distributor's subsidiary or affiliate within a reasonable period of time, even though the dealer is still waiting on possession of the vehicle's title. Such a vehicle, if displayed on the dealer's lot, must be placed in a dedicated area at the dealership and arranged in a manner that clearly separates the vehicle from those available for immediate sale to the public with signage placed on the vehicle indicating the vehicle is not available for final sale until the title is in the possession of the dealer.

(12) A dealer may park, store, hold, and repair vehicles owned under 1 dealer license on the lot or property held by the same dealer under a separate dealer license that is located within a 15-mile radius.

History: 1949, Act 300, Eff. Sept. 23, 1949;—Am. 1951, Act 270, Eff. Sept. 28, 1951;—Am. 1957, Act 281, Eff. Sept. 27, 1957;—Am. 1962, Act 166, Eff. Mar. 28, 1963;—Am. 1964, Act 166, Imd. Eff. Jan. 1, 1965;—Am. 1966, Act 216, Eff. Mar. 10, 1967;—Am. 1970, Act 123, Imd. Eff. July 23, 1970;—Am. 1976, Act 439, Imd. Eff. Jan. 13, 1977;—Am. 1978, Act 507, Eff. July 1, 1979;—Am. 1980, Act 398, Eff. Mar. 31, 1981;—Am. 1988, Act 255, Eff. Oct. 1, 1989;—Am. 1992, Act 304, Imd. Eff. Dec. 21, 1992;—Am. 1993, Act 300, Eff. July 1, 1994;—Am. 1998, Act 384, Eff. Jan. 1, 1999;—Am. 1999, Act 172, Imd. Eff. Nov. 16, 1999;—Am. 2002, Act 642, Eff. Jan. 1, 2003;—Am. 2004, Act 495, Eff. Jan. 31, 2005;—Am. 2016, Act 425, Eff. Apr. 4, 2017;—Am. 2018, Act 420, Eff. Mar. 20, 2019;—Am. 2022, Act 224, Eff. Jan. 23, 2023.