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HOUSE BILL 564

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

Luciano "Lucky" Varela

AN ACT

**RELATING TO MOTOR VEHICLE SALES; RESTRICTING CERTAIN MOTOR
VEHICLE DEALER SALES ACTIVITIES; CHANGING CERTAIN PROVISIONS
PERTAINING TO SUPPLEMENTAL LICENSES.**

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

**Section 1. A new section of the Motor Vehicle Code is
enacted to read:**

" NEW MATERIAL MOTOR VEHICLE DISPLAY SHOWS. --

**A. A dealer of motor vehicles licensed pursuant to
the provisions of Chapter 66, Article 4 NMSA 1978 may display
motor vehicles for show only and not for sale if:**

**(1) the dealer is licensed to sell the motor
vehicle to be displayed;**

**(2) the dealer has the written permission of
the owner or the person in legal control of the real property**

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1 upon which the motor vehicle is to be displayed; and

2 (3) the dealer has given written notice to
3 the department at least three business days prior to the
4 display show and the notice contains:

5 (a) the dates of the display show;

6 (b) a copy of the written permission
7 required by Paragraph (2) of this subsection;

8 (c) a description of the location of
9 the display show in sufficient detail to allow the division to
10 locate the display show, provided that a legal description of
11 the property shall not be required; and

12 (d) the dealer's license number.

13 B. No dealer shall consummate or attempt to
14 consummate the sale of a motor vehicle at a display show.

15 C. No dealership personnel or person acting in the
16 dealership's interest shall be present at the display show
17 unless the display show consists of recreational vehicles or
18 manufactured housing only, except that any such person that is
19 necessary to move or service a motor vehicle may be present as
20 long as necessary to perform those functions.

21 D. A sale of a motor vehicle by a dealer at a
22 display show shall be void. For the purpose of this
23 subsection, the place of sale of a motor vehicle is the
24 physical place of the buyer when signing a document binding or
25 purporting to bind the buyer to the purchase of the vehicle,

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1 whether or not that document is superseded by a subsequent
2 agreement. "

3 Section 2. Section 66-4-2 NMSA 1978 (being Laws 1978,
4 Chapter 35, Section 215, as amended) is amended to read:

5 "66-4-2. DEPARTMENT TO ISSUE LICENSE. --

6 A. The department, upon receiving application
7 accompanied by the required fee and when satisfied that the
8 applicant is of good character and, so far as can be
9 ascertained, has complied with and will comply with the laws
10 of this state with reference to the registration of vehicles
11 and certificates of title and the provisions of the Motor
12 Vehicle Code, shall issue to the applicant a license [which]
13 that entitles the licensee to carry on and conduct the
14 business of a dealer, wrecker of vehicles or title service
15 company, as the case may be, during the period for which the
16 license is issued. The license shall expire on the last day
17 of the period for which it is issued and may be renewed upon
18 application and payment of the fee required by law.

19 ~~[B. Any dealer or wrecker of vehicles licensee,~~
20 ~~before moving any one or more of the licensee's places of~~
21 ~~business or opening any additional place of business, shall~~
22 ~~apply to the department for and obtain a supplemental license~~
23 ~~for which no fee shall be charged. No supplemental license~~
24 ~~shall be issued to a dealer, other than a dealer in~~
25 ~~motorcycles, for an additional place of business unless:~~

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1 ~~(1) the place of business is an established~~
2 ~~place of business; or~~

3 ~~(2) the majority of dealers, other than~~
4 ~~dealers in motorcycles, in the county in which the proposed~~
5 ~~additional place of business would be located have been~~
6 ~~offered the opportunity, in documentation acceptable to the~~
7 ~~department, to offer vehicles for sale at the proposed~~
8 ~~additional place of business by the applicant; provided that~~
9 ~~the offer shall be for sale of vehicles at all times at which~~
10 ~~the applicant proposes to sell vehicles and shall not be~~
11 ~~conditioned upon the payment of any fee by any dealer to whom~~
12 ~~it is addressed greater than a fair share of the actual~~
13 ~~expenses incurred.]~~

14 B. A dealer's license shall entitle the licensee
15 to sell only vehicles for which the title or manufacturer's
16 certificate of origin has been assigned to that dealer. No
17 dealer shall sell or offer for sale, except as otherwise
18 provided in this section, a motor vehicle at a location other
19 than the established place of business for which he is
20 licensed. A licensed motor vehicle dealer shall not consign
21 with another licensed motor vehicle dealer more than five
22 motor vehicles at one time. In a twelve-month period, a
23 dealer shall not purchase more than five vehicles from another
24 dealer after buying the same vehicles from that same dealer
25 unless there has been a bona fide intermediate owner other

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1 than a motor vehicle dealer. Nothing in this subsection shall
2 prohibit a dealer from selling a motor vehicle on consignment
3 for a financial institution after the vehicle has been
4 repossessed or at a bona fide auction sale at which only
5 licensed dealers may purchase a motor vehicle. Nothing in
6 this subsection shall prohibit a dealer whose principal
7 business is conducting auction sales of motor vehicles from
8 conducting bona fide auction sales at a fixed and permanent
9 facility.

10 C. If a licensed dealer elects to move one or more
11 of his places of business or open an additional place of
12 business because his established place of business has been or
13 will be obstructed or impeded by a temporary physical
14 condition, including street construction, the licensed dealer
15 shall apply for and obtain a supplemental license from the
16 division, for which no fee shall be charged. The supplemental
17 license shall be issued for a period of time not to exceed the
18 period of time when the licensed dealer's established place of
19 business is anticipated to be obstructed or impeded by a
20 temporary physical condition.

21 [~~C.~~] D. [~~Any~~] A person to whom the department has
22 issued a license to conduct the business of a dealer in
23 motorcycles is deemed a wrecker of motorcycles without
24 additional license.

25 [~~D.~~] E. The department is authorized to establish

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1 a staggered system for licensing of dealers, wholesalers,
2 distributors and wreckers of vehicles and of title service
3 companies, provided that ~~any~~ a license issued shall expire
4 on the last day of a month. During the initial adjustment
5 period of July 1, 1999 through December 31, 2000, the
6 department may issue licenses for periods less than twelve
7 months or up to twenty-one months to establish a more uniform
8 monthly pattern of expirations. For ~~any~~ a license issued
9 for a period other than twelve months during the initial
10 adjustment period, the fee imposed pursuant to Section 66-6-18
11 NMSA 1978 shall be adjusted accordingly. After the initial
12 adjustment period, licenses issued shall be issued for a
13 period of twelve months. "

14 Section 3. TEMPORARY PROVISION. --A dealer of motor
15 vehicles operating an established place of business with a
16 supplemental license issued under the provisions of Section
17 66-4-2 NMSA 1978 in effect on December 1, 2000 and continuing
18 to operate that additional established place of business under
19 a supplemental license as of March 1, 2001 may continue to
20 operate at that additional established place of business
21 through December 31, 2004, provided the dealer's license is
22 timely renewed on an annual basis and ~~that~~ the dealer's
23 license has not been canceled, revoked or suspended by the
24 motor vehicle division of the taxation and revenue department.

25 Section 4. EFFECTIVE DATE. --The effective date of the

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1 provisions of this act is July 1, 2001.

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