



P.O. Box 201305
Anchorage, Alaska
99520-1305

HB 36 – Motor Vehicle Dealers; Applications; Insurance Requirements

The sale of vehicles in the State of Alaska vitally affects the general economy of the state and the public interest and the public welfare. In order to promote the public interest and the public welfare it is necessary to regulate and license dealers doing business in Alaska in order to prevent fraud, impositions, and other abuses upon its citizens and to protect and preserve the investments and properties of the citizens of Alaska.

The maintenance of strong and sound dealerships is essential to provide continuing and necessary reliable services to the consuming public.

As of late (the past 3-4 years), our used vehicle market has become overwhelmed by "dealers" who buy vehicles at the local dealer auction and from private parties. These "dealers" then proceed to sell said vehicles to the general public under the guise of a private seller, with no disclosure of the seller being a "licensed dealer," with no safety inspections, no disclosure of reconstructed title, and no disclosure of known defects. Furthermore, the title is often never placed in the "dealer's" name. Thus, after the deal is done, there is no evidence they were involved in the sale at all. This practice is known as "curbstoning."

Curbstoning allows for falsifying the selling price to avoid paying taxes, avoids a paper trail when issues arise, i.e., no odometer disclosure, no salvage/reconstructed title disclosure, and no vehicle history. Many curbstoners operate in groups, working out of their homes with no business location, using multiple cell phones, and title vehicles using the names of family, friends, and associates.

Curbstoning happens due to our anemic and ineffective dealer licensing requirements. Currently, a person can obtain a dealer license for a surety bond of \$50,000 (cost of approximately \$500), a \$50 registration fee, and a business license from the State of Alaska. There is no other state in the nation that has such lackadaisical dealer licensing requirements. The additional requirements of a certificate of liability insurance, Worker's Comp insurance, no recent felony convictions of certain crimes (past 5 years), a record of a valid phone number, and increasing the surety bond to the amount of \$50,000, would go a long way towards making it more difficult for unscrupulous actors to obtain a dealer license and conduct business in an unethical, fraudulent, and deceptive manner.

Under our current application requirements, here's what can happen:

For approximately \$550 and a State of Alaska business license, a curbstoner can obtain a dealer license and begin buying vehicles at discounted rates at the local "dealer only" auction. After buying vehicles with known defects, a curbstoner can sell that vehicle the same day on Craigslist. The title can be swapped into an associates name or left in the prior owner's name. The phone used by the curbstoner is a throwaway-phone (the number is

temporary). The vehicle was sold at the auction with frame damage or other known defects. Nothing is disclosed, not even the fact that the consumer is buying from an automotive dealer. The unwitting consumer pays cash and has no recourse or other manner to even file a complaint. The curbstoner sells the vehicle for \$5000 and falsifies the sale price to reflect \$2000 and avoid paying tax. The curbstoner then moves on to the next consumer. It happens again and again through the anonymity of selling on Craigslist and the ease with which a dishonest dealer can obtain license.

Another example that's played out over the past few years is a dealer sells multiple vehicles to another dealer and receives payment without providing titles (the titles are being held by the bank that provides a credit line for purchasing vehicles). The selling dealer plans to pay for the vehicles and get title but has financial difficulties and loses access to the flooring line funds. The bank takes back the vehicles from the dealer to whom they were sold. The dealer who purchased the vehicles now is out the money paid for the vehicles and decides to seek recompense from the selling dealer's bond. The bond currently pays only up to \$50,000, which is only a fraction of what is owed; hence, the need to increase the bond to an amount that is adjusted to current market prices - this protects both dealers and consumers from losses.

House Bill 36 would add some additional requirements to provide reasonable standards for licensees ensuring worker and consumer protections.

A Dealer must:

- List a valid phone number on their application for licensure.
- Ensure that no person holding a five percent or greater interest in the business has, during the 5-year period immediately preceding the date of the application, been convicted of a felony involving fraud, embezzlement, or misappropriation of property.
- Provide a statement of understanding that if applicable workers' compensation insurance coverage required under AS 23.30 has been obtained.
- Provide a copy of a certificate of insurance documenting that the applicant maintains liability insurance to protect consumers.

The bill would also address outdated and inadequate insurance and bonding requirements to protect consumers:

- Require Dealers to obtain and maintain a surety Bond in the amount of \$100,000.
- Require Dealers to maintain public liability and property damage insurance on the dealer's operations in the state in amounts of not less than \$50,000 for damage to property, \$100,000 for injury, including death, to any one person, and \$200,000 for injury, including death, to more than one person.

These statutory amendments will update Dealer licensing statutes to strengthen professional standards while also strengthening protections for Alaskan consumers.



CONTINENTAL

ACURA HONDA MAZDA NISSAN SUBARU VOLVO

February 18, 2021

The Honorable Representative Matt Claman
Alaska House of Representatives
State Capitol
Juneau, AK 99801

Re: Support HB 36 – MOTOR VEHICLE DEALERS: APPLIC.; INSURANCE

Representative Claman:

I am writing this letter to express my support for HB 36 an update to the Alaska Motor Vehicle Dealers licensing requirements. I am the owner/operator of Continental Auto Group in Anchorage and a board member of the Alaska Auto Dealers Association.

I believe the changes to the dealer licensing requirements are reasonable and fair. The intent of making the changes are to prevent unscrupulous individuals from attaining a dealer license who in turn misrepresent the vehicles they sell to the general public. This is for all intent and purposes a consumer protection bill. Recently a friend of mine found a Mazda that he was interested in purchasing on Craigslist. He asked me to research our service history since we have the Mazda franchise to see if the car had any history at our organization. In my research I discovered that we took the vehicle in trade and brought it to the Alaska Dealer Auction because it had a bad transmission and wasn't worth repairing. We fully disclosed that the vehicle had a bad transmission before auctioning the vehicle. The vehicle was purchased by a licensed dealer knowing that the transmission was bad. The next day this vehicle was posted on Craigslist for sale by a private party not the licensed dealer who purchased it (which needs to be disclosed if you are selling a vehicle). The seller assured my friend that the vehicle was in excellent condition. This happens on a regular basis. Unfortunately, most customers don't check a vehicles maintenance or repair history before they purchase. Furthermore, there isn't any recourse when you purchase a car from a private party. There are many licensed dealers that purchase "junk" vehicles that are meant for parts at the auction and then transfer title to friends or relatives to sell on Craigslist without disclosing any mechanical problems. HB 36 will not deter all of the unscrupulous dealers but it will certainly help.

I am happy to lend my support in any way to see that HB 36 becomes law. Please do not hesitate to call if you have any questions. Thank you for introducing the bill.

Sincerely,

Marten Martensen



February 20, 2021

The Honorable Representative Matt Claman, Chairman
House Judiciary Committee
Alaska House of Representatives
State Capitol, Room 118
Juneau, AK 99801

Re: Support HB 36 – MOTOR VEHICLE DEALERS: APPLICANT.; INSURANCE

Chairman Claman:

I am writing to thank you for introducing HB 36 an update to the Alaska Motor Vehicle Dealers licensing requirements. My name is Carrol Lyberger and I own Lyberger's Car & Truck Sales. We have been at our current location 9530 Old Seward Hwy since 1999.

We need to make changes in how a dealer license is obtained in this state. Currently bad actors are able to take advantage of our licensing requirements in Alaska. For example, John Doe applies for and obtains a dealer license. The name he lists on his dealer license is AAA Company and lists his home address as his business address. He has no land line, just a cell phone that he changes every month. He then purchases vehicles *as a dealer* and then subsequently runs ads on Craig's list *as an individual* selling their own personal vehicle.

The vehicle in question was purchased at an auction for dealers only, or more often purchased from Copart Auction. Copart is an auction that insurance companies use to get rid of their totaled vehicles. These vehicles are being purchased by the bad actors with frame damage then being sold to unknowing consumers. When you are a legitimate licensed Automobile Dealer there are both State and Federal laws to follow. All legitimate dealers know the rules and follow them. No one in our state monitors to see if dealers are following the laws. It needs to be a responsible and professional dealer selling to the consumer.

Example: Had a young couple come to our dealership she was pregnant, they were trading in a truck that had a lift on it purchased from an individual about three months prior. We tried to help them but couldn't because the VEHICLE HAD FRAME DAMAGE. My guys said the frame had been welded and was coming apart. It was dangerous to drive. They had a loan on this truck for way more than the actual value. **This put them in a dangerous situation both physically and financially. They had no recourse. I see this happen all the time.**

It needs to be a responsible and professional business selling to the consumer. If a dealer has a store front, sign and a land line phone number you know where to find them. They are invested in the community.

Thank you for introducing HB 36. It is so important to the public.

Carrol Lyberger 907-349-3343



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February 21, 2021

The Honorable Representative Matt Claman, Chairman
House Judiciary Committee
Alaska House of Representatives
State Capitol, Room 118
Juneau, AK 99801

Re: Support HB 36 – MOTOR VEHICLE DEALERS: APPLIC.; INSURANCE

Chairman Claman,

I'm writing to thank you for introducing HB36, an update to the Alaska Motor Vehicle Dealers licensing requirements. I'm owner of Alaska Sales and Service, Inc., a GM dealer, with locations in Anchorage and the Mat Su Valley.

I support the bill because in my 50 plus years at this dealership, I have seen many, many situations where unscrupulous parties holding a Dealer License have abused ethical business practices and harmed not only consumers, but ethical dealers as well.

I have seen cases where a dealer has taken consumer's vehicle in on trade and failed to pay off the outstanding loan on numerous vehicles, leaving the consumers in a lurch with not only a loan on newer vehicle, but still responsible for the outstanding loan on their trade that was to have been paid off by the dealer they were doing business with.

I have seen cases where a dealer is selling extended service contracts to their customer, never to register the policies or pay the provider and instead, pocketing the money. Only to be caught when consumers realized they didn't have the coverage they paid for.

Most recently I have dealt with a "dealer" who was a wholesaler (buying from one dealer and selling to another), who did not pay the dealer purchased from, but kept the money when sold to another dealer. Upon threat of not only suing the "dealer" but reporting to the Attorney General's office were the unpaid balances resolved. The "dealer" is no longer in the business as I believe more dealers than Alaska Sales and Service were harmed.

Frankly, I feel that the bond should be higher. The current \$50,000 won't often cover even one vehicle. I don't know how long it has been at that level, but the price of automobiles has increased significantly since it went into effect.

It's imperative that we protect consumers and dealers from such unethical, illegal practices. I offer my support and appreciate your efforts on the sponsorship of this bill that is so important to the ethical automotive automobile dealers in Alaska.

Sincerely,


Diana Pfeiffer, President/CEO
Alaska Sales and Service, Inc.

February 21, 2021

The Honorable Representative Matt Claman, Chairman
House Judiciary Committee
Alaska House of Representatives
State Capitol, Room 118
Juneau, AK 99801

Re: Support HB 36 – Motor Vehicle Dealers: Applic.: Insurance

Chairman Claman:

I write to thank you for introducing HB 36, an update to Alaska Motor Vehicle Dealers licensing requirements.

My name is Marcus Waehler and I own Red White & Blue Auto Sales in Anchorage, Ak. While I have owned Red White & Blue since 2008, I have been in the car business since 1997. In the past 4-5 years some dramatic changes have occurred amongst our Alaska dealer group and how vehicles are sold to the public. Namely, these changes includes a group of new dealers who do not have store fronts or operate with any semblance of a legitimate business. After obtaining a dealer license (\$500 bond and \$50 business license), they purchase vehicles at the local dealer auction and proceed to sell them to the public under the guise of a private party. Often these predatory dealers sell these vehicles on craigslist, do not disclose known defects, do not disclose vehicles that are reconstructed, and fabricate stories to make the vehicle more appealing to the buyer. Buyers often are not made aware of the reconstructed status until they go to sell or trade-in the vehicle they bought from said 'private party'. In any case, consumers are being exploited and unscrupulous dealers are operating with impunity.

To address these unscrupulous practices, I strongly support the proposed changes in HB 36. These changes will make it more difficult for unethical dealers to acquire a dealers license and ensure minimum consumer protections are in place, i.e., automotive insurance, greater bond protections, and no felony convictions in the past 5 years.

Thank you, again, Representative Claman, for introducing HB 36.

Sincerely,

Marcus Waehler