

1 IN THE SENATE

BY SENATOR GREIMANN

2 SENATE BILL NO.145

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SECOND LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to licensing motor vehicle,  
7 trailer or semi-trailer dealers; repealing  
8 Ch. 135, SLA 1959 as amended by Ch. 159, SLA  
9 1960; and providing for an effective date."

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

11 Section 1. LICENSE REQUIRED. Every dealer of or in motor  
12 vehicles, trailers or semi-trailers shall, as a condition to en-  
13 gaging in business in this state, be licensed annually by the  
14 Department of Revenue in accordance with this Act. A fee of  
15 \$25.00 shall accompany the application for the issuance of the  
16 annual license. However, the provisions of this Act with respect  
17 to the licensing of dealers shall not apply to a person who sells  
18 less than four vehicles during any calendar year.

19 Sec. 2. DEFINITIONS. As used in this Act, unless the context  
20 otherwise requires:

21 (1) "dealer" means any individual, firm, co-partnership,  
22 corporation or association; or any agent, broker or salesman,  
23 whether individual, corporate or otherwise, engaged as such agent,  
24 broker or salesman for any individual, firm, co-partnership, cor-  
25 poration or association not located within the state; who is en-  
26 gaged within the state in the business of buying, selling or deal-  
27 ing in new or used motor vehicles, trailers or semi-trailers;

28 (2) "established place of business" means a place  
29 actually occupied either continuously or at regular periods by a

1 dealer, where the books and records pertinent to the type of  
2 business being conducted are kept. The place of business shall  
3 have an office and a display situated on the same property where  
4 business is or may be transacted. When a room or rooms in a hotel,  
5 apartment house building, or a part of any single or multiple unit  
6 dwelling house is used as an office or offices of an established  
7 place of business, the room or rooms shall be devoted exclusively  
8 to and occupied for the office or offices of the dealer, shall be  
9 located on the ground floor, and shall be constructed so as to  
10 provide a direct entrance into the room or rooms from the exterior  
11 of the building. The place of business shall be opened to in-  
12 spection of pertinent records and vehicles by any peace officer  
13 during business hours.

14 Sec. 3. AUTHORITY OF DEPARTMENT TO REFUSE TO ISSUE LICENSE TO  
15 DEALERS. The commissioner of the Department of Revenue may refuse  
16 to issue a license to a dealer when it is determined that:

17 (1) The applicant was previously licensed by the depart-  
18 ment, and the holder of a license, which license was revoked for  
19 cause and never reissued by the department or which license was  
20 suspended for cause and the terms of suspension have not been ful-  
21 filled;

22 (2) One or more of the partners, if the applicant is a  
23 partnership, or one or more of the stockholders or officers of the  
24 corporation, if a corporation is the applicant,

25 (a) was previously the holder of a license issued  
26 under the authority of this Act, which was revoked for cause  
27 and never reissued or was suspended for cause and the terms  
28 of suspension have not been terminated, and

29 (b) that by reason of the facts and circumstances

1 touching the organization, control, and management of the  
2 partnership or corporation business the policy of such busin-  
3 ess will be directed, controlled, or managed by individuals  
4 who, by reason of their conviction of violations of the pro-  
5 visions of this Act, would be ineligible for a license and  
6 that by licensing such corporation or partnership, the purposes  
7 of this Act would likely be defeated;

8 (3) The applicant, or one of the partners, if the appli-  
9 cant be a partnership, or one or more of the officers of the cor-  
10 poration, if a corporation is the applicant, or one or more of the  
11 stockholders if the policy of such business will be directed, con-  
12 trolled, or managed by such stockholder or stockholders, has ever  
13 been convicted of a felony or a crime involving moral turpitude.

14 Sec. 4. FORM OF APPLICATION. The application shall be on  
15 blanks furnished by the Department of Revenue and must show:

- 16 (1) Name under which business is conducted;  
17 (2) Location of business;  
18 (3) Name and address of all owners or persons having an  
19 interest in the business; in the case of a corporation the name and  
20 address of the two principal officers is sufficient;  
21 (4) Name and make of all vehicles handled;  
22 (5) Whether or not used vehicles are handled;  
23 (6) A statement to the effect that the applicant is a  
24 bona fide dealer in motor vehicles, trailers, or semi-trailers with  
25 an established place of business at the location given;  
26 (7) Such other information as the Department of Revenue  
27 shall require to efficiently administer this Act.

28 Sec. 5. SUSPENSION: REVOCATION: REFUSAL OF RENEWAL. The  
29 commissioner of revenue, after notice and hearing, may suspend,

1 revoke or refuse to renew the license issued to a dealer, upon  
2 determining that the person is not lawfully entitled thereto, has  
3 made or knowingly or negligently permitted any illegal use of the  
4 special plates issued to said persons, or has violated this Act or  
5 one or more of the laws governing the licensing and titling of  
6 motor vehicles in Alaska, or has been convicted of a felony or a  
7 crime involving moral turpitude. Every hearing as provided for in  
8 this section shall be held under the provisions of the Administra-  
9 tive Procedure Act.

10 Sec. 6. TEMPORARY SUSPENSION OR REFUSAL TO RENEW. The com-  
11 missioner of revenue may, pending a hearing, temporarily suspend  
12 or refuse to renew the license or special plates issued to a dealer  
13 for a period not to exceed 30 days if such action is required in  
14 the public interest. In any such case, a hearing shall be held  
15 and a decision thereon issued within 30 days after notice of the  
16 temporary suspension. Every hearing as provided for in this sec-  
17 tion shall be held under the provisions of the Administrative Pro-  
18 cedure Act.

19 Sec. 7. SIGNS OR DEVICES ON ESTABLISHED PLACE OF BUSINESS.  
20 A dealer's established place of business and such other sites or  
21 locations as may be operated and maintained by dealers in con-  
22 junction with their established place of business shall have posted  
23 in a conspicuous place at each and every location the license  
24 issued by the commissioner and shall have erected or posted there-  
25 on such signs or devices providing information relating to the  
26 dealer's name, and the location and address of such dealer's  
27 established place of business to enable any person doing business  
28 with such dealer to identify him properly. Every such sign erected  
29 or posted on an established place of business shall have an area

1 of not less than two square feet per side displayed, and shall  
2 contain lettering of sufficient size to enable the sign to be read  
3 from a distance of at least 50 feet.

4 Sec. 8. BOND. a. Every applicant for a dealer's registra-  
5 tion or for the renewal of such dealer's registration shall file  
6 with the application or request for renewal, and shall thereafter  
7 maintain in force while so registered, a bond, in favor of the  
8 State of Alaska, executed by an authorized corporate surety ap-  
9 proved by the commissioner of revenue, in the amount of \$2,000.00.  
10 The bond shall be conditioned that the applicant will conduct his  
11 business in accordance with the provisions of this Act and will not  
12 commit fraud or make fraudulent representations in the course  
13 thereof.

14 b. Any such bond shall be held in the office of the com-  
15 missioner of revenue. The surety or sureties may cancel the bond  
16 upon 30 days advance notice in writing filed with the commissioner  
17 Provided, however, that the cancellation shall not relieve the  
18 surety or sureties of liability arising on the bond from a sale  
19 made by the bonded dealer prior to cancellation or by liability  
20 which has accrued upon the bond prior to cancellation. The com-  
21 missioner shall retain the cancelled bond on file and may not  
22 relieve the surety or sureties of this remaining liability.

23 Sec. 9. ACTION UPON BOND. If any person suffers any loss or  
24 damage by reason of fraud, fraudulent representations or violation  
25 of any of the provisions of this Act by a dealer, he has a right  
26 of action against such dealer and a right of action in his own  
27 name against the surety upon the bond, provided, however, that the  
28 aggregate liability of the surety to all such persons shall, in no  
29 event, exceed the amount of said bond.

1           Sec. 10. SERVICE OF PROCESS. A dealer's license, or renewal  
2 of the license, shall not be issued to any applicant until the  
3 applicant shall file with the department a good and sufficient in-  
4 strument in writing in which he shall appoint the commissioner of  
5 revenue as his true and lawful agent upon whom all process may be  
6 served in any action, or actions, which may thereafter be com-  
7 menced against such applicant, arising out of any claim for damages  
8 suffered by any firm, person, association or corporation, by rea-  
9 son of the violation by said applicant of this Act or any of the  
10 laws governing the licensing and titling of motor vehicles in  
11 Alaska, or any condition of the dealer's bond. The applicant shall  
12 stipulate and agree in said appointment that any process directed  
13 to said applicant, when personal service of process upon him can-  
14 not be made in this state after due diligence, can be served upon  
15 the commissioner of revenue, or in the event of his absence from  
16 his office, upon any employee in charge of the office of such  
17 commissioner, with the same legal force and effect as if served  
18 upon said applicant personally. Said applicant shall further  
19 stipulate and agree in writing that the agency created by said  
20 appointment shall continue for and during the period covered by any  
21 license that may be issued and so long thereafter as the applicant  
22 may be made to answer in damages for a violation of this Act or  
23 of the laws governing the licensing and titling of motor vehicles  
24 in Alaska or any conditions of his bond, as aforesaid.

25           Sec. 11. FRAUD. If any person shall suffer any loss or  
26 damage by reason of any fraud practiced on him or fraudulent  
27 representation made to him by a licensed dealer or one of the  
28 dealer's salesmen acting for the dealer, in his behalf, or within  
29 the scope of the employment of such salesman; provided such person

1 has possession of a written instrument furnished by the licensee,  
2 containing stipulated provisions and guarantees which the person  
3 believes have been violated by the licensee, or shall suffer any  
4 loss or damage by reason of the violation by such dealer of this  
5 Act or of the laws governing the licensing and titling of motor  
6 vehicles in Alaska, or is not paid for a vehicle sold to and pur-  
7 chased by a licensee, such person shall have a right of action  
8 against such dealer, his said salesman, and the surety upon the  
9 dealer's bond, in an amount not to exceed the value of the vehicle  
10 purchased from or sold to the dealer.

11 Sec. 12. CHANGE OF ESTABLISHED PLACE OF BUSINESS. The com-  
12 missioner of revenue shall not issue a dealer's license to any  
13 applicant who does not have an established place of business as de-  
14 fined in this Act. Should the dealer change the site or location  
15 of his established place of business, he shall immediately upon  
16 making such change notify the department. Should a dealer for any  
17 reason whatsoever cease to be in possession of an established place  
18 of business from and on which he conducts the business for which  
19 he is licensed, he shall immediately notify the commissioner of  
20 revenue and upon demand by the commissioner shall deliver to the  
21 department such dealer's licenses and dealer's special plate or  
22 plates, and all report of sale books in his possession.

23 Sec. 13. UNLAWFUL ACTS. a. It shall be unlawful and a  
24 violation of this Act for the holder of any license issued under  
25 this Act:

26 (1) To intentionally publish or circulate any advertis-  
27 ing which is misleading or inaccurate in any material particular  
28 or which misrepresents any of the products sold or furnished by a  
29 licensed dealer.

1 (2) To advertise or offer for sale or exchange in any  
2 manner, any vehicle not actually for sale at the premises of such  
3 dealer or available to said dealer from the manufacturer or dis-  
4 tributor of such vehicle at the time of the advertisement or offer

5 (3) To advertise or represent a vehicle as a new  
6 vehicle if such vehicle has previously been registered in this or  
7 any other jurisdiction or has been used as a demonstrator by the  
8 dealer;

9 (4) To knowingly purchase, sell or otherwise acquire or  
10 dispose of a stolen motor vehicle;

11 (5) To engage in the business for which the licensee is  
12 licensed without having in force and effect a good and sufficient  
13 bond with corporate surety as hereinbefore provided;

14 (6) For any licensed dealer to engage in the business  
15 for which such dealer is licensed without at all times maintaining  
16 an established place of business as required by this Act;

17 (7) To include as an added cost to the selling price of  
18 a vehicle, an amount for licensing or transfer of title of the  
19 vehicle, which amount is not due to the state unless such amount  
20 has in fact been paid by the dealer prior to such sale;

21 (8) To deliver, following sale, a new unregistered  
22 vehicle for operation on the public highways, if such vehicle does  
23 not meet all of the equipment requirements of the Alaska Traffic  
24 Regulations;

25 (9) To refuse or fail to allow the inspection of the  
26 premises and records relating to the sale or purchase of motor  
27 vehicles if same is requested by a duly authorized peace officer  
28 or employee of the department.

29 b. It shall be unlawful for a person to act as a dealer

1 without having first procured from the Department of Revenue a  
2 license as required by this Act.

3       Sec. 14. ENFORCEMENT. It shall be the duty of all peace  
4 officers in the State of Alaska to enforce the provisions of this  
5 Act. The commissioner of the Department of Revenue shall publish  
6 quarterly a list of all dealers licensed under the provisions of  
7 this Act and shall distribute same to all municipal police organi-  
8 zations and to the offices of the Alaska State Police.

9       Sec. 15. PENALTIES. Any person who violates any provision  
10 of this Act is guilty of a misdemeanor and upon conviction thereof  
11 shall be punished by imprisonment for not more than six months or  
12 by fine not to exceed \$1,000.00 or both such fine and imprisonment

13       Sec. 16. REPEAL. Ch. 135, SLA 1959 as amended by Ch. 159,  
14 SLA 1960 is repealed.

15       Sec. 17. EFFECTIVE DATE. This Act takes effect on the day  
16 after its passage and approval or on the day it becomes law with-  
17 out such approval.

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