

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 366 Session of 2011

INTRODUCED BY D. WHITE, FONTANA, TARTAGLIONE, RAFFERTY,
ERICKSON, ALLOWAY, SOLOBAY, WAUGH, YUDICHAK AND FERLO,
FEBRUARY 1, 2011

REFERRED TO CONSUMER PROTECTION AND PROFESSIONAL LICENSURE,
FEBRUARY 1, 2011

AN ACT

1 Amending the act of December 22, 1983 (P.L.306, No.84), entitled
2 "An act providing for the State Board of Vehicle
3 Manufacturers, Dealers and Salespersons; and providing
4 penalties," further providing for definitions, for licensure
5 and for State Board of Vehicle Manufacturers, Dealers and
6 Salespersons.

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 Section 1. The definitions of "dealer" and "vehicle" in
10 section 2 of the act of December 22, 1983 (P.L.306, No.84),
11 known as the Board of Vehicles Act, amended April 19, 1996
12 (P.L.104, No.27), are amended and the section is amended by
13 adding definitions to read:

14 Section 2. Definitions.

15 The following words and phrases when used in this act shall
16 have the meanings given to them in this section unless the
17 context clearly indicates otherwise:

18 * * *

19 "Dealer." A person required to be licensed under this act

1 who is engaged in the business of buying, selling or exchanging
2 new or used vehicles or an interest in new or used vehicles,
3 regardless of whether the vehicles are owned by that person. The
4 term includes persons engaged in consignment sales for a seller,
5 but does not include a person issued an identification number by
6 the Department of Transportation, unless the board has also
7 issued a dealer license to the person. Vehicle dealers shall be
8 classified as one or more of the following:

9 (1) A new vehicle dealer, who is a person engaged in the
10 business of buying, selling or exchanging new and used
11 vehicles, trailers or semitrailers for commission,
12 compensation or other consideration, who holds a franchise
13 with a manufacturer or distributor, giving the dealer selling
14 rights for that particular line-make of new vehicles,
15 trailers or semitrailers, or who is a distributor of new
16 vehicles, trailers or semitrailers who holds a franchise with
17 a manufacturer or distributor of vehicles, trailers and
18 semitrailers.

19 (2) A used vehicle dealer, who is a person engaged in
20 the business of buying, selling or exchanging used vehicles,
21 trailers or semitrailers for commission, compensation or
22 other consideration. The term includes fleet owners who
23 engage directly in the retail sale of its fleet vehicles.

24 (3) A new manufactured housing dealer, who is a person
25 engaged in the business of selling new manufactured housing
26 and buying, selling or exchanging used manufactured housing
27 or mobile homes for commission, compensation or other
28 consideration and who holds a franchise with a manufacturer
29 or distributor giving the dealer selling rights for a
30 particular line-make of new manufactured housing.

1 (4) A used manufactured housing or mobile home dealer,
2 who is a person engaged in the business of buying, selling or
3 exchanging used manufactured housing or mobile homes for
4 commission, compensation or other consideration.

5 (5) A new recreational vehicle dealer, who is a person
6 engaged in the business of buying, selling or exchanging new
7 and used recreational vehicles for commission, compensation
8 or other consideration and who holds a franchise with a
9 manufacturer or distributor giving the dealer selling rights
10 for a particular line of new recreational vehicles.

11 (6) A used recreational vehicle dealer, who is a person
12 engaged in the business of buying, selling or exchanging used
13 recreational vehicles for commission, compensation or other
14 consideration.

15 (7) A mobility vehicle dealer.

16 * * *

17 "Mobility vehicle." A vehicle that:

18 (1) Is designed and equipped to transport a person with
19 a disability.

20 (2) Contains a lowered floor or lowered frame or a
21 raised roof and raised door.

22 (3) Contains one of the following:

23 (i) an electronic or mechanical wheelchair, scooter
24 or platform lift that enables a person to enter or exit
25 the vehicle while occupying a wheelchair or scooter;

26 (ii) an electronic or mechanical wheelchair ramp; or

27 (iii) a system to secure a wheelchair or scooter to
28 allow for a person to be safely transported while
29 occupying the wheelchair or scooter that is installed as
30 an integral part or permanent attachment to the vehicle

1 chassis.

2 "Mobility vehicle dealer." A person engaged in the business
3 of buying, selling or exchanging mobility vehicles for
4 commission, compensation or other consideration.

5 * * *

6 "Vehicle." Every device which is or may be moved or drawn
7 upon a highway, except devices which are infrequently operated
8 or moved upon a highway but are designed primarily for use in
9 construction or agriculture or road maintenance, devices moved
10 by human or animal power, devices used exclusively upon rails or
11 tracks, [and] motorized pedalcycles and mobility vehicles.

12 * * *

13 Section 2. Section 3(a) of the act, amended April 19, 1996
14 (P.L.104, No.27), is amended to read:

15 Section 3. State Board of Vehicle Manufacturers, Dealers and
16 Salespersons.

17 (a) Board.--The State Board of Vehicle Manufacturers,
18 Dealers and Salespersons shall consist of 17 members, one of
19 whom shall be the Commissioner of Professional and Occupational
20 Affairs, or his designee, one of whom shall be the Secretary of
21 the Department of Transportation, or his designee, one of whom
22 shall be the Director of Consumer Protection in the Office of
23 Attorney General, or his designee, and the remaining 14 of whom
24 shall be appointed by the Governor as follows:

25 (1) Three members shall be new vehicle dealers who have
26 been actively engaged as such for a period of five years
27 immediately preceding their appointment.

28 (2) Three members shall be used vehicle dealers who have
29 been actively engaged as such for a period of five years
30 immediately preceding their appointment. One used vehicle

1 dealer member beginning with the first vacancy for a used
2 vehicle dealer after the effective date of this amendment
3 shall also be an owner, partner or officer of a corporation
4 or business which is licensed as a vehicle auction and which
5 has been actively engaged as such for a period of five years
6 immediately preceding the appointment.

7 (3) One shall be a manufactured housing or mobile home
8 dealer who has been actively engaged as such for a period of
9 five years immediately preceding appointment.

10 (4) One shall be a salesperson who has been actively
11 engaged in the sale of new or used vehicles for a period of
12 five years immediately preceding appointment. The member
13 shall not be a dealer or an officer of a corporation or a
14 member of a partnership engaged in the business of a dealer
15 at the time of appointment.

16 (5) One shall be a recreational vehicle dealer who has
17 been actively engaged as such for a period of five years
18 immediately preceding appointment.

19 (6) One shall be a motorcycle dealer who has been
20 actively engaged as such for a period of five years
21 immediately preceding appointment.

22 (6.1) One member shall be a mobility vehicle dealer who
23 has been actively engaged as such for a period of five years
24 immediately preceding appointment.

25 (7) [Four] Three shall be members of the general public
26 having no connection with the vehicle business.

27 * * *

28 Section 3. Section 5 of the act is amended by adding a
29 subsection to read:

30 Section 5. License to engage in business.

1 * * *

2 (g.1) Mobility vehicle dealers.--

3 (1) A licensed dealer classified as a mobility vehicle
4 dealer may do all of the following:

5 (i) Display, inventory, advertise, solicit,
6 demonstrate, sell, offer for sale or deliver new and used
7 mobility vehicles.

8 (ii) Arrange, negotiate and assist a customer
9 regarding the purchase of a mobility vehicle.

10 (iii) Sell and install equipment and accessories in,
11 and provide services for, mobility vehicles, in order to
12 meet the needs of persons with disabilities as drivers or
13 passengers.

14 (iv) Provide maintenance and repair services for
15 mobility vehicles.

16 (v) Acquire a new vehicle with a lowered floor or
17 frame or a raised roof and door in order to fit or equip
18 the vehicle for retail sale as a new mobility vehicle.

19 (2) A licensed dealer that is classified only as a
20 mobility vehicle dealer may not offer for sale or sell
21 vehicles which are not mobility vehicles.

22 * * *

23 Section 4. This act shall take effect in 60 days.