

Vehicle curb stoning

(Person/s selling vehicles without a retail automotive license)



Code of Alabama Section 40-12-390

Definitions.

The following words and phrases, when used in this article, shall have the following meanings:

- (1) COMMISSIONER. The state Commissioner of Revenue.
- (2) DISTRIBUTOR. Any person, firm, or corporation engaged in the business of selling or distributing new motor vehicles to new motor vehicle dealers.
- (3) MANUFACTURER. Any person, firm, or corporation engaged in the business of manufacturing or assembling new and unused motor vehicles.
- (4) MOTOR VEHICLE. Any motor vehicle as defined in Section 40-12-240, but the term shall not include any trailer not required to have a certificate of title.
- (5) MOTOR VEHICLE REBUILDER. Any person, firm, or corporation engaged in the business of making or causing to be made extensive repairs, replacements, or combination of different motor vehicles to the extent of extinguishing the identity of the original vehicle to the extent that the finished motor vehicle may be assigned a new identification to be issued by the Department of Revenue under the provisions of Chapter 8 of Title 32. The term also includes any person, firm, or corporation engaged in the business of refurbishing, repairing, or replacing damaged parts of motor vehicles for the purpose of preparing the vehicle for resale under the same identification and identity as the vehicle had before the refurbishing.
- (6) MOTOR VEHICLE WHOLESALER. Any person, firm, or corporation engaged in the business of buying, selling, or exchanging motor vehicles at wholesale to motor vehicle dealers, as defined in this article, and not to the public.

(7) NEW MOTOR VEHICLE. A motor vehicle, other than a used motor vehicle, the legal title of which has never been transferred by a manufacturer, distributor, or new motor vehicle dealer to an ultimate purchaser.

(8) NEW MOTOR VEHICLE DEALER. Any person, firm, or corporation which holds a bona fide contract or franchise in this state in effect with a manufacturer or distributor of new motor vehicles and is engaged in the business of selling, advertising, or negotiating the sale of new motor vehicles or new and used motor vehicles, and the duly licensed new motor vehicle dealers shall be the sole and only persons, firms, or corporations entitled, other than in connection with the rental or leasing of new motor vehicles by persons engaged in the business of motor vehicle rental and leasing, to sell and publicly or otherwise solicit and advertise for sale new motor vehicles. The term also includes a motor vehicle rebuilder and motor vehicle wholesaler as defined in this article.

(9) PERMANENT LOCATION. A building or structure from which sales of motor vehicles are conducted. A house used as a residence by the business owner, a partner, or a corporate officer from which sales of motor vehicles are conducted may also be a permanent location. The building or structure must be owned, rented, or leased and must be used as an office and a place to receive mail, keep records, and conduct routine business, to include an operable telephone listed with the telephone company under the name of the licensed business.

(10) USED MOTOR VEHICLE. A motor vehicle, the legal title of which has been transferred by a manufacturer, distributor, or new motor vehicle dealer to an ultimate purchaser.

(11) USED MOTOR VEHICLE DEALER. Any person, firm, or corporation engaged in the business of buying, selling, exchanging, advertising, or negotiating the sale of five or more motor vehicles at retail during a calendar year, whether or not the motor vehicles are owned by such person, firm, or corporation, or in offering or displaying motor vehicles for sale at retail to the public. The term "selling" or "sale" shall include lease-purchase transactions. The term "used motor vehicle dealer" does not include banks, credit unions, licensees of the State Banking Department, and finance companies which acquire motor vehicles as an incident to their regular business and does not include motor vehicle rental and leasing companies. The term also includes a motor vehicle rebuilder and motor vehicle wholesaler as defined in this article.

(12) ULTIMATE PURCHASER. With respect to a new motor vehicle, the first person, firm, or corporation, other than a new motor vehicle dealer purchasing in his or her capacity as a new motor vehicle dealer, who in good faith purchases the new motor vehicle for purposes other than resale. Ultimate purchaser shall not include a person, firm, or corporation who purchases a vehicle for purposes of altering or remanufacturing the motor vehicle for future resale.

(Acts 1978, No. 539, p. 597, §1; Acts 1991, No. 91-321, p. 595, §1; Acts 1995, No. 95-727, p. 1553, §1; Act 2004-534, p. 1126, §1; Act 2012-561, p. 1660, §1; Act 2014-158, p. 445, §2.)

Section 40-12-391

License - Generally.

(a) No person shall be licensed as an automobile dealer under the provisions of Section 40-12-51, nor shall any person engage in business as, serve in the capacity of, or act as a new motor vehicle dealer, used motor vehicle dealer, motor vehicle rebuilder, or motor vehicle wholesaler in this state, without first obtaining a license as provided in this article and, if a new motor vehicle dealer, or a used motor vehicle dealer, a state sales tax number.

(b) No person, firm, or corporation shall engage in the business of buying, selling, exchanging, advertising, or negotiating the sale of new motor vehicles unless he or she holds a valid license as a new motor vehicle dealer in this state for the make or makes of new motor vehicles being bought, sold, exchanged, advertised, or negotiated or unless a bona fide employee or agent of the licensee.

(c) Notwithstanding any law of this state providing otherwise, neither a new motor vehicle dealer nor a used motor vehicle dealer nor any person engaged in the business of motor vehicle rental and leasing:

(1) With respect to a credit sale transaction, is required to be licensed under Chapter 19 of Title 5 in order to pay any amount necessary to satisfy a lease on, security interest in, or lien on any motor vehicle either returned to that dealer or to the lessor or traded in by the purchaser in connection with the credit sale transaction, and to include that amount as part of the amount to be paid by the purchaser under the credit sale transaction; or

(2) With respect to a lease transaction, is subject to Chapter 19 of Title 5 or otherwise deemed to have made a loan or credit sale by virtue of paying any amount necessary to satisfy a lease on, security interest in, or lien on any motor vehicle either returned to that dealer or to the original lessor or traded in by the lessee in connection with the lease transaction, and including that amount as part of the amount to be paid by the lessee under the lease transaction.

(Acts 1978, No. 539, p. 597, §2; Acts 1991, No. 91-321, p. 595, §1; Acts 1995, No. 95-727, p. 1553, §1; Act 99-398, p. 661, §1; Act 2014-158, p. 445, §2.)

Section 40-12-400

Violations of article.

Any person violating any of the provisions of this article shall be guilty of a Class A misdemeanor.

(Acts 1978, No. 539, p. 597, §7; Act 2004-534, §1; Act 2014-158, p. 445, §2.)

Misdemeanor criminal charges are classified into three **classes**: A, B, and C.

Class A misdemeanors are the most serious, and are eligible for a jail sentence of up to one (1) year and a fine up to \$6,000.00. Sep 3, 2012