

An Act

SENATE BILL 20-140

BY SENATOR(S) Holbert, Cooke, Crowder, Marble, Scott, Tate;
also REPRESENTATIVE(S) Melton, Titone, Valdez A.

CONCERNING THE TYPES OF CONDITIONS THAT MAY AUTHORIZE A PERSON TO
RECOVER FROM THE BOND REQUIRED AS A CONDITION TO BE
LICENSED TO SELL VEHICLES WITH MOTORS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 44-20-112, **amend** (1)
and (2) as follows:

44-20-112. Bond of licensee. (1) Before any motor vehicle dealer's, wholesaler's, wholesale motor vehicle auction dealer's, business disposal, or used motor vehicle dealer's license is issued by the board through the executive director to an applicant, the applicant must procure and file with the board evidence of a savings account, deposit, or certificate of deposit meeting the requirements of section 11-35-101 or a good and sufficient bond with corporate surety ~~thereon~~ duly licensed to do business within the state, approved as to form by the attorney general of the state, and conditioned that the applicant must not practice fraud ~~make any fraudulent representation;~~ or violate any ~~of the provisions~~ **PROVISION** of this part 1

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

RELATED TO FRAUD that ~~are~~ IS designated by the board by rule in the ~~conduct of~~ CONDUCTING the business for which the applicant is licensed. A motor vehicle dealer, business disposer, or used motor vehicle dealer need not furnish an additional bond, savings account, deposit, or certificate of deposit under this section if the dealer furnishes a bond, savings account, deposit, or certificate of deposit under section 44-20-412.

(2) (a) The purpose of the bond procured by the applicant ~~pursuant to~~ IN ACCORDANCE WITH subsection (1) of this section and section 44-20-114 (1) is to provide for the reimbursement for any loss or damage suffered by any retail consumer caused by FRAUD OR A violation of this part 1 RELATED TO FRAUD by a motor vehicle dealer, used motor vehicle dealer, wholesale motor vehicle auction dealer, business disposer, or wholesaler. For a wholesale transaction, the bond is available to each party to the transaction; except that, if a retail consumer is involved, the consumer ~~shall have~~ HAS priority to recover from the bond. The amount of the bond ~~shall~~ MUST be fifty thousand dollars for a motor vehicle dealer applicant, used motor vehicle dealer applicant, wholesale motor vehicle auction dealer applicant, business disposal applicant, or wholesaler applicant; except THAT the amount of the bond ~~shall~~ MUST be five thousand dollars for those dealers who sell only small utility trailers that weigh less than two thousand pounds. The aggregate liability of the surety for all transactions ~~shall not exceed~~ IS LIMITED TO the amount of the bond, regardless of the number of claims or claimants.

(b) No corporate surety shall be required to make any payment to any person claiming under the bond until a final determination of fraud ~~or fraudulent representation~~ has been made by the board or by a court of competent jurisdiction.

SECTION 2. In Colorado Revised Statutes, 44-20-113, **amend** (1) and (2) as follows:

44-20-113. Motor vehicle salesperson's bond. (1) Before ~~any~~ A motor vehicle salesperson's license is issued by the board through the executive director to any applicant, ~~therefor~~, the applicant ~~shall~~ MUST procure and file with the board evidence of a savings account, deposit, or certificate of deposit meeting the requirements of section 11-35-101 or a good and sufficient bond in the amount of fifteen thousand dollars with corporate surety ~~thereon~~ duly licensed to do business within the state,

approved as to form by the attorney general of the state, and conditioned that the applicant ~~shall~~ MUST perform in good faith as a motor vehicle salesperson without fraud ~~or fraudulent representation~~ and without the violation of any ~~of the provisions~~ PROVISION of this part 1 RELATED TO FRAUD that ~~are~~ IS designated by the board by rule. A motor vehicle salesperson ~~shall~~ NEED not ~~be required to~~ furnish an additional bond, savings account, deposit, or certificate of deposit under this section if the dealer furnishes a bond, savings account, deposit, or certificate of deposit under section 44-20-413.

(2) No corporate surety shall be required to make any payment to any person claiming under the bond until a final determination of fraud ~~or fraudulent representation~~ has been made by the board or by a court of competent jurisdiction.

SECTION 3. In Colorado Revised Statutes, 44-20-114, **amend** (1) and (3) as follows:

44-20-114. Buyer agent bonds. (1) ~~TO BE ISSUED a buyer agent's license, shall not be issued by the executive director to any~~ AN applicant ~~therefor until the applicant procures and files~~ MUST PROCURE AND FILE with the executive director evidence of a savings account, deposit, or certificate of deposit meeting the requirements of section 11-35-101 or a good and sufficient bond in the amount of five thousand dollars with a corporate surety duly licensed to do business within the state and approved as to form by the attorney general. The bond shall be available to ensure that the applicant shall perform in good faith as a buyer agent without fraud ~~or fraudulent representation~~ and without violating any ~~of the provisions~~ PROVISION of this part 1 RELATED TO FRAUD that ~~are~~ IS designated by the executive director by rule.

(3) No corporate surety shall be required to make any payment to any person claiming under the bond until a final determination of fraud ~~or fraudulent representation~~ has been made by the executive director or by a court of competent jurisdiction.

SECTION 4. In Colorado Revised Statutes, 44-20-131, **amend** (1); and **add** (4) as follows:

44-20-131. Right of action for loss. (1) (a) If a person suffers loss

or damage by reason of fraud practiced on the person ~~or fraudulent representation made to the person~~ by a licensed dealer or one of the dealer's salespersons acting on the dealer's behalf or within the scope of the employment of the salesperson, or IF A PERSON suffers any loss or damage by reason of the violation by the dealer or salesperson of ANY PROVISION OF this part 1 RELATED TO FRAUD that ~~are~~ IS designated by the board by rule, whether or not the violation is the basis for denial, suspension, or revocation of a license, the person suffering loss or damages has a right of action against the dealer OR the dealer's motor vehicle salespersons. ~~and the sureties upon their respective bonds.~~ The right of a person to recover for loss or damage as provided in this subsection (1) against the dealer or salesperson is not limited to the amount of their respective bonds.

(b) A person suffering loss or damages has a right of action against a licensed business disposer ~~and the surety upon the disposer's bond~~ if:

(I) The loss or damage is caused by fraud practiced on the person ~~or a fraudulent representation made to the person~~ by the disposer or the disposer's agent within the scope of employment; or

(II) The loss or damage is caused by the disposer violating ANY PROVISION OF this part 1 RELATED TO FRAUD and the violation is designated by the board by rule, whether or not the violation is the basis for denial, suspension, or revocation of the license.

(4) A PERSON WHO SUFFERS LOSS OR DAMAGES RESULTING FROM FRAUD MAY BRING A SEPARATE ACTION AGAINST, AND RECOVER FROM THE SURETY ON THE BOND OF, THE LICENSED DEALER, BUSINESS DISPOSER, BUYER AGENT, OR SALESPERSON IF:

(a) THE LICENSED DEALER, DISPOSER, BUYER AGENT, OR SALESPERSON HAS NOT REIMBURSED THE PERSON FOR THE LOSS OR DAMAGES; AND

(b) AFTER EITHER:

(I) THE BOARD ISSUED A FINAL AGENCY ORDER WITH A FINDING OF FRAUD BY A LICENSED DEALER, DISPOSER, BUYER AGENT, OR SALESPERSON; OR

(II) A COURT ENTERED JUDGMENT UPON A CLAIM OF FRAUD BY A LICENSED DEALER, DISPOSER, BUYER AGENT, OR SALESPERSON.

SECTION 5. In Colorado Revised Statutes, 44-20-412, **amend** (1) and (2) as follows:

44-20-412. Bond of licensee. (1) TO BE ISSUED a wholesaler's license, powersports vehicle dealer's license, or used powersports vehicle dealer's license, ~~shall not be issued to any~~ AN applicant ~~unless the applicant procures and files~~ MUST PROCURE AND FILE with the board evidence of a savings account, deposit, or certificate of deposit meeting the requirements of section 11-35-101 or a good and sufficient bond with A corporate surety ~~thereon~~ duly licensed to do business within the state, approved as to form by the attorney general, and conditioned that the applicant ~~shall not make any fraudulent representation~~ NOT PRACTICE FRAUD or violate any of the provisions of this part 4 RELATED TO FRAUD or any rule promulgated by the board under this part 4 RELATED TO FRAUD. A powersports vehicle dealer or used powersports vehicle dealer ~~shall not be required to~~ NEED NOT furnish an additional bond, savings account, deposit, or certificate of deposit under this section if the dealer furnishes a bond, savings account, deposit, or certificate of deposit under section 44-20-112.

(2) (a) The purpose of the bond procured by the applicant ~~pursuant to~~ IN ACCORDANCE WITH subsection (1) of this section and section 44-20-413 is to provide for the reimbursement for any loss or damage suffered by any retail consumer caused BY FRAUD OR by A violation of this part 4 RELATED TO FRAUD by a wholesaler, powersports vehicle dealer, or used powersports vehicle dealer. For a wholesale transaction, the bond is available to each party to the transaction; except that, if a retail consumer is involved, the consumer ~~shall have~~ HAS priority to recover from the bond. The amount of the bond ~~shall~~ MUST be fifty thousand dollars for each wholesaler applicant, powersports vehicle dealer applicant, and used powersports vehicle dealer applicant. The aggregate liability of the surety for all transactions ~~shall~~ DOES not exceed the amount of the bond, regardless of the number of claims or claimants.

(b) No corporate surety ~~shall be~~ IS required to make a payment to any person making a claim under the bond until a final determination of fraud ~~or fraudulent representation~~ has been made by the board or by a court of competent jurisdiction.

SECTION 6. In Colorado Revised Statutes, 44-20-413, **amend** (1) and (2) as follows:

44-20-413. Powersports vehicle salesperson's bond. (1) TO BE ISSUED a powersports vehicle salesperson's license, ~~shall not be issued unless the applicant has procured and filed~~ MUST PROCURE AND FILE with the board evidence of a savings account, deposit, or certificate of deposit meeting the requirements of section 11-35-101 or a good and sufficient bond in the amount of fifteen thousand dollars with A corporate surety ~~thereon~~ duly licensed to do business within the state, approved as to form by the attorney general, and conditioned that the applicant ~~shall~~ perform in good faith as a powersports vehicle salesperson without fraud ~~or fraudulent representation~~ and without violating A PROVISION OF this part 4 RELATED TO FRAUD or any rule promulgated by the board under this part 4 RELATED TO FRAUD. The board shall implement ~~by January 1, 2008,~~ a psychometrically valid and reliable salesperson exam that measures the minimum level of competence necessary to practice. A powersports vehicle salesperson ~~shall not be required to~~ NEED NOT furnish an additional bond, savings account, deposit, or certificate of deposit under this section if the salesperson furnishes a bond, savings account, deposit, or certificate of deposit under section 44-20-113.

(2) No corporate surety ~~shall be~~ IS required to make a payment to any person claiming under the bond until a final determination of fraud ~~or fraudulent representation~~ has been made by the board or by a court of competent jurisdiction.

SECTION 7. In Colorado Revised Statutes, 44-20-432, **amend** (1); and **add** (4) as follows:

44-20-432. Right of action for loss. (1) A person ~~shall have~~ HAS a right of action against the LICENSED POWERSPORTS VEHICLE dealer, USED POWERSPORTS VEHICLE DEALER, OR the dealer's POWERSPORTS salespersons ~~and the sureties upon their respective bonds~~ if the person suffers loss or damage by reason of fraud practiced on the person ~~or fraudulent representation made to the person by a licensed powersports vehicle dealer or a licensed used powersports vehicle dealer,~~ BY A DEALER or one of the dealer's salespersons acting on the dealer's behalf or within the scope of the employment or suffers loss or damage by reason of the violation by the dealer or salesperson of any ~~of the provisions~~ PROVISION of this part 4

RELATED TO FRAUD that ~~are~~ IS designated by the board by rule, whether or not the violation is the basis for denial, suspension, or revocation of a license. The right of a person to recover for loss or damage as provided in this subsection (1) against the dealer or salesperson ~~shall~~ IS not ~~be~~ limited to the amount of their respective bonds.

(4) A PERSON WHO SUFFERS LOSS OR DAMAGES RESULTING FROM FRAUD MAY BRING A SEPARATE ACTION AGAINST, AND RECOVER FROM THE SURETY ON THE BOND OF, THE LICENSED POWERSPORTS VEHICLE DEALER, USED POWERSPORTS VEHICLE DEALER, OR POWERSPORTS SALESPERSON IF:

(a) THE LICENSED DEALER OR SALESPERSON HAS NOT REIMBURSED THE PERSON FOR THE LOSS OR DAMAGES; AND

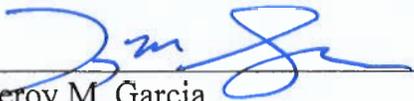
(b) AFTER EITHER:

(I) THE BOARD ISSUED A FINAL AGENCY ORDER WITH A FINDING OF FRAUD BY A LICENSED DEALER OR SALESPERSON; OR

(II) A COURT ENTERED JUDGMENT UPON A CLAIM OF FRAUD BY A LICENSED DEALER OR SALESPERSON.

SECTION 8. Act subject to petition - effective date - applicability. (1) This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 5, 2020, if adjournment sine die is on May 6, 2020); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2020 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

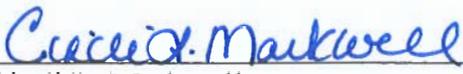
(2) This act applies to offenses committed on or after the applicable effective date of this act.



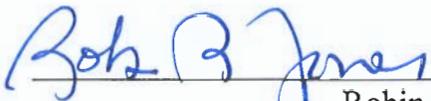
Leroy M. Garcia
PRESIDENT OF
THE SENATE



KC Becker
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

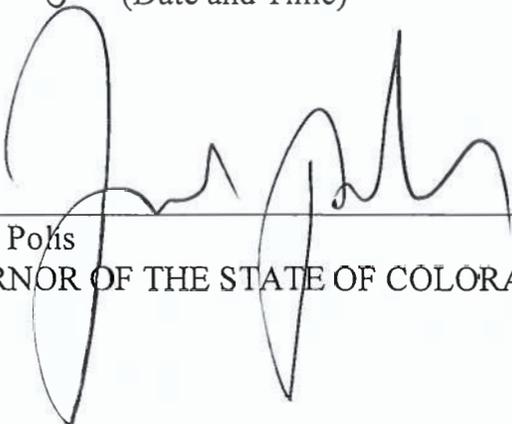


Cindi L. Markwell
SECRETARY OF
THE SENATE



Robin Jones
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED July 02, 2020 at 3:45 pm
(Date and Time)



Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO