

CHAPTER 181

PROFESSIONS AND OCCUPATIONS

HOUSE BILL 98-1128

BY REPRESENTATIVES May, Gotlieb, Kaufman, and Lawrence;
also SENATOR Ament.

AN ACT

CONCERNING REGULATION OF MOTOR VEHICLE TRANSACTIONS, AND, IN CONNECTION THEREWITH,
EXTENDING THE EXISTENCE OF THE MOTOR VEHICLE DEALER BOARD.

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

SECTION 1. 12-6-101 (1) (a), (1) (c), and (1) (d), Colorado Revised Statutes, are amended to read:

12-6-101. Legislative declaration. (1) The general assembly hereby declares that:

(a) The sale and distribution of motor vehicles ~~is affected with a~~ AFFECTS THE public interest and ~~it is recognized that~~ a significant factor of inducement in making a sale of a motor vehicle is the trust and confidence of the purchaser in the retail dealer from whom the purchase is made and the expectancy that such dealer will remain in business to provide service for the motor vehicle purchased;

(c) The licensing and supervision of motor vehicle dealers by the motor vehicle dealer board are necessary for the protection of consumers and therefore the sale of motor vehicles by unlicensed dealers OR SALESPERSONS, OR BY LICENSED DEALERS OR SALESPERSONS WHO HAVE DEMONSTRATED UNFITNESS, should be ~~curtailed~~ PREVENTED;

(d) Consumer education concerning the rules and regulations of the motor vehicle industry, ~~and the considerations when purchasing a motor vehicle, is~~ AND THE ROLE, FUNCTIONS, AND ACTIONS OF THE MOTOR VEHICLE DEALER BOARD ARE necessary for the protection of ~~consumers due to the value of a motor vehicle~~ THE PUBLIC AND FOR MAINTAINING THE TRUST AND CONFIDENCE OF THE PUBLIC IN THE MOTOR VEHICLE DEALER BOARD.

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

SECTION 2. 12-6-102 (1.5) and (12.6) and the introductory portion to 12-6-102 (17), Colorado Revised Statutes, are amended to read:

12-6-102. Definitions. As used in this part 1, unless the context otherwise requires:

(1.5) "Advertisement" means any commercial message in any newspaper, magazine, leaflet, flyer, or catalog, on radio, television, or a public address system, in direct mail literature or other printed material, on any interior or exterior sign or display, in any window display, ON A COMPUTER DISPLAY, or in any point-of-transaction literature or price tag ~~which~~ THAT is delivered or made available to a customer or prospective customer in any manner whatsoever; EXCEPT THAT SUCH TERM DOES NOT INCLUDE MATERIALS REQUIRED TO BE DISPLAYED BY FEDERAL OR STATE LAW.

(12.6) "Motor vehicle auctioneer" means any person, not otherwise required to be licensed pursuant to this part 1, who is engaged in the business of offering to sell, or selling, used motor vehicles owned by persons other than the auctioneer at public auction only. ANY AUCTIONING OF MOTOR VEHICLES BY AN AUCTIONEER SHALL BE INCIDENTAL TO THE PRIMARY BUSINESS OF AUCTIONING GOODS.

(17) "Used motor vehicle dealer" means any person who, for commission or with intent to make a profit or gain of money or other thing of value, sells, exchanges, leases, or offers an interest in used motor vehicles, or attempts to negotiate a sale, exchange, or lease of used and new motor vehicles or who is engaged wholly or in part in the business of selling used motor vehicles, whether or not such motor vehicles are owned by such person. The sale of three or more used motor vehicles or the offering for sale of more than three used motor vehicles at the same address or telephone number in any one calendar year shall be prima facie evidence that a person is engaged in the business of selling used motor vehicles. "Used motor vehicle dealer" includes any owner of real property who allows more than three used motor vehicles to be offered for sale on such property during one calendar year unless said property is leased to a licensed used motor vehicle dealer. ~~or a licensed motor vehicle auctioneer, as defined in subsection (12.6) of this section.~~ "Used motor vehicle dealer" does not include:

SECTION 3. 12-6-103 (1), Colorado Revised Statutes, is amended to read:

12-6-103. Motor vehicle dealer board. (1) There is hereby created and established the motor vehicle dealer board, consisting of nine members who have been residents of this state for at least five years, three of whom shall be licensed motor vehicle dealers, three of whom shall be licensed used motor vehicle dealers, and three of whom shall be members from the public at large. The members representing the public at large shall not have a present or past financial interest in a motor vehicle dealership. The board shall assume its duties July 1, 1992, and all terms of the board members shall commence on that date. The terms of office of the board members shall be three years. ~~except that, of the members appointed to take office on July 1, 1992, three shall be appointed for a one-year term, three shall be appointed for a two-year term, and three shall be appointed for a three-year term.~~ Any vacancies shall be filled by appointment for the unexpired term.

SECTION 4. 12-6-104 (2), (3) (e) (I), (3) (f), (3) (j) (II), (3) (j) (III), (3) (l), and (3) (m) (I), Colorado Revised Statutes, are amended, and the said 12-6-104 (3) is further amended BY THE ADDITION OF THE FOLLOWING NEW PARAGRAPHS, to read:

12-6-104. Board - oath - meetings - powers and duties. (2) The board shall ~~within thirty days on or after July 1, 1992, and annually thereafter~~ in the month of July elect from the membership thereof a president, a FIRST vice-president, and a ~~secretary who shall also serve as treasurer~~ SECOND VICE-PRESIDENT. The board shall meet at such times as it deems necessary. A majority of the board shall constitute a quorum at any meeting or hearing.

(3) The board is authorized and empowered:

(a.5) TO DELEGATE TO THE BOARD'S EXECUTIVE SECRETARY, EMPLOYED PURSUANT TO SECTION 12-6-105 (1) (b), THE AUTHORITY TO EXECUTE ALL ACTIONS WITHIN THE POWER OF THE BOARD, CARRY OUT THE DIRECTIVES OF THE BOARD, AND MAKE RECOMMENDATIONS TO THE BOARD ON ALL MATTERS WITHIN THE AUTHORITY OF THE BOARD;

(a.7) TO ISSUE THROUGH THE DEPARTMENT OF REVENUE A TEMPORARY LICENSE TO ANY PERSON APPLYING FOR ANY LICENSE ISSUED BY THE BOARD. THE TEMPORARY LICENSE SHALL PERMIT THE APPLICANT TO OPERATE FOR A PERIOD NOT TO EXCEED ONE HUNDRED TWENTY DAYS WHILE THE BOARD IS COMPLETING ITS INVESTIGATION AND DETERMINATION OF ALL FACTS RELATIVE TO THE QUALIFICATIONS OF THE APPLICANT FOR SUCH LICENSE. A TEMPORARY LICENSE IS TERMINATED WHEN THE APPLICANT'S LICENSE IS ISSUED OR DENIED.

(e) (I) After due notice and a hearing, to review the findings of the judge if the hearing was conducted by an administrative law judge pursuant to section 24-4-105, C.R.S., OR A HEARING OFFICER FROM WITHIN THE BOARD'S MEMBERSHIP, or upon its own findings if the hearing was conducted by the board, to revoke and suspend or to order the executive director to issue or to reinstate, on such terms and conditions and for such period of time as to the board shall appear fair and just, any license issued under and pursuant to the terms and provisions of this part 1. THE BOARD MAY DIRECT A LETTER OF ADMONITION FOR MINOR VIOLATIONS OR MAY ISSUE A LETTER OF REPRIMAND TO ANY LICENSEE FOR A VIOLATION OF THIS PART 1. A LETTER OF ADMONITION DOES NOT BECOME A PART OF THE LICENSEE'S RECORD WITH THE BOARD. A LETTER OF REPRIMAND IS A PART OF THE LICENSEE'S RECORD WITH THE BOARD FOR A PERIOD OF TWO YEARS AFTER ISSUANCE AND MAY BE CONSIDERED IN AGGRAVATION OF ANY SUBSEQUENT VIOLATION BY THE LICENSEE. WHEN A LETTER OF REPRIMAND IS SENT TO A LICENSEE OF THE BOARD, SUCH LICENSEE SHALL BE NOTIFIED IN WRITING REGARDING THE RIGHT TO REQUEST IN WRITING, WITHIN TWENTY DAYS AFTER RECEIPT OF SUCH LETTER, THAT FORMAL DISCIPLINARY PROCEEDINGS BE INITIATED AGAINST SUCH LICENSEE TO ADJUDICATE THE PROPRIETY OF THE CONDUCT UPON WHICH THE LETTER OF REPRIMAND IS BASED. IF A REQUEST IS MADE WITHIN SUCH TIME PERIOD, THE LETTER OF REPRIMAND IS DEEMED VACATED AND THE MATTER SHALL BE PROCESSED BY MEANS OF FORMAL DISCIPLINARY PROCEEDINGS.

(f) (I) To investigate through the executive director, on its own motion or upon the ~~sworn~~ WRITTEN AND SIGNED complaint of any person, any suspected or alleged

violation by any motor vehicle dealer, motor vehicle salesperson, used motor vehicle dealer, wholesale motor vehicle auction dealer, or wholesaler licensee of any of the terms and provisions of this part 1 or of any rule or regulation promulgated by the board under the authority conferred upon it in this section. The board shall order an investigation of all ~~sworn~~ WRITTEN AND SIGNED complaints, shall have the authority to issue subpoenas and to delegate the authority to issue subpoenas to the executive director, and the executive director shall make an investigation of all such complaints transmitted by the board pursuant to section 12-6-105 (1) (d). THE BOARD HAS THE AUTHORITY TO SEEK TO RESOLVE DISPUTES BEFORE BEGINNING AN INVESTIGATION OR HEARING THROUGH ITS OWN ACTION OR BY DIRECTION TO THE EXECUTIVE DIRECTOR.

(II) After an investigation BY THE EXECUTIVE DIRECTOR OR THE EXECUTIVE DIRECTOR'S DESIGNEE, if the board determines that there is probable cause to believe a violation of this article has occurred, it may order that an administrative hearing be held pursuant to section 24-4-105, C.R.S., OR MAY DESIGNATE ONE OF THE BOARD'S MEMBERS AS A HEARING OFFICER TO CONDUCT A HEARING PURSUANT TO SECTION 24-4-105, C.R.S.

~~(j) (II) The examination required in subparagraph (I) of this paragraph (j) shall be conducted by the department of revenue;~~

~~(III) The board and the executive director shall report to the sunrise and sunset review committee on their progress in developing an updated examination and procedure for conducting such examination by July 1, 1992.~~

~~(I) (I) To prescribe a form or forms to be used as a part of a contract for the lease of a motor vehicle by any motor vehicle dealer or motor vehicle salesperson, which shall include the following information in addition to any other disclosures or information required by state or federal law:~~

~~(A) In twelve-point bold-faced type or a size of at least three points larger than the smallest type appearing in the contract, an instruction that the form is a legal instrument and that, if the lessee of the motor vehicle does not understand the form, such lessee should seek legal assistance;~~

~~(B) In bold-faced type, of the size specified in sub-subparagraph (A) of this subparagraph (I), an instruction that only those terms in written form embody the contract for the lease of a motor vehicle and that any conflicting oral representations made to the lessee are void;~~

~~(C) In bold-faced type, of the size specified in sub-subparagraph (A) of this subparagraph (I), a notice that fraud or misrepresentation in the lease of a motor vehicle is punishable under the laws of this state;~~

~~(D) A statement disclosing the dollar value of any trade-in or capital cost reduction made by the lessee, which value shall be agreed upon by the parties and entered in writing on the contract.~~

~~(H) The information required by subparagraph (I) of this paragraph (I) shall be read and initialed by both parties at the time of the consummation of the lease of a motor vehicle.~~

~~(III) The use of the contract form required by subparagraph (I) of this paragraph (I) shall be mandatory for the lease of any motor vehicle.~~

(m) (I) (A) If a hearing is held before an administrative law judge OR A HEARING OFFICER DESIGNATED BY THE BOARD FROM WITHIN THE BOARD'S MEMBERSHIP, after due notice and a hearing by such judge OR HEARING OFFICER pursuant to section 24-4-105, C.R.S., to review the findings of law and fact and the fairness of any fine imposed by such judge and to uphold such fine, ~~which shall not exceed ten thousand dollars for each separate offense by any person licensed by the board pursuant to this part 1;~~ to impose an administrative fine upon its own initiative, which shall not exceed ten thousand dollars for each separate offense by any licensee, or to vacate the fine imposed by the judge OR HEARING OFFICER; except that, for motor vehicle dealers who sell primarily vehicles ~~which~~ THAT weigh under one thousand five hundred pounds, the fine for each separate offense shall not exceed one thousand dollars. WHENEVER A HEARING IS HEARD BY AN ADMINISTRATIVE LAW JUDGE, THE MAXIMUM FINE THAT MAY BE IMPOSED IS TEN THOUSAND DOLLARS FOR EACH SEPARATE OFFENSE BY ANY PERSON LICENSED BY THE BOARD PURSUANT TO THIS PART 1; EXCEPT THAT, FOR MOTOR VEHICLE DEALERS WHO SELL PRIMARILY VEHICLES THAT WEIGH UNDER ONE THOUSAND FIVE HUNDRED POUNDS, THE FINE FOR EACH SEPARATE OFFENSE MAY NOT EXCEED ONE THOUSAND DOLLARS. WHENEVER A LICENSING HEARING IS CONDUCTED BY A HEARING OFFICER, THE SANCTIONS THAT MAY BE RECOMMENDED BY THE HEARING OFFICER ARE LIMITED TO THE DENIAL OR GRANT OF AN UNRESTRICTED LICENSE OR A RESTRICTED LICENSE UNDER SUCH TERMS AS THE HEARING OFFICER DEEMS APPROPRIATE. WHENEVER A DISCIPLINARY HEARING IS CONDUCTED BY A HEARING OFFICER, THE HEARING OFFICER MAY ONLY RECOMMEND A PROBATIONARY PERIOD OF NO MORE THAN TWELVE MONTHS, A FINE OF NO MORE THAN FIVE HUNDRED DOLLARS, OR BOTH SUCH PROBATIONARY PERIOD AND FINE FOR EACH SEPARATE VIOLATION COMMITTED BY A PERSON LICENSED BY THE BOARD.

(B) THE BOARD SHALL PROMULGATE RULES REGARDING CIRCUMSTANCES IN WHICH A BOARD MEMBER SHOULD NOT ACT AS A HEARING OFFICER IN A PARTICULAR MATTER BEFORE THE BOARD BECAUSE OF BUSINESS COMPETITION ISSUES CONNECTED WITH THE PARTIES INVOLVED IN SUCH MATTER.

(o) (I) TO IMPOSE A FINE OF UP TO ONE THOUSAND DOLLARS PER DAY PER VIOLATION FOR ANY PERSON FOUND, AFTER NOTICE AND HEARING PURSUANT TO SECTION 24-4-105, C.R.S., TO HAVE VIOLATED THE PROVISIONS OF SECTION 12-6-120 (2). FOR THE PURPOSES OF THIS PARAGRAPH (o), THE ADDRESS FOR THE NOTICE TO BE GIVEN UNDER SECTION 24-4-105, C.R.S., IS THE LAST-KNOWN ADDRESS FOR THE PERSON AS INDICATED IN THE STATE MOTOR VEHICLE RECORDS; THE LAST-KNOWN ADDRESS FOR THE OWNER OF THE REAL PROPERTY UPON WHICH MOTOR VEHICLES ARE DISPLAYED IN VIOLATION OF SECTION 12-6-120 (2) AS INDICATED IN THE RECORDS OF THE COUNTY ASSESSOR'S OFFICE; OR AN ADDRESS FOR SERVICE OF PROCESS IN ACCORDANCE WITH RULE 4 OF THE COLORADO RULES OF CIVIL PROCEDURE.

(II) ANY PERSON WHO FAILS TO PAY A FINE ORDERED BY THE BOARD FOR A VIOLATION OF SECTION 12-6-102 (2) UNDER THIS PARAGRAPH (o) SHALL BE SUBJECT TO ENFORCEMENT PROCEEDINGS, BY THE BOARD THROUGH THE ATTORNEY GENERAL, IN THE COUNTY OR DISTRICT COURT PURSUANT TO THE COLORADO RULES OF CIVIL PROCEDURE. ANY FINES COLLECTED UNDER THE PROVISIONS OF THIS PARAGRAPH (o) SHALL BE DISPOSED OF PURSUANT TO SECTION 12-6-123.

SECTION 5. 12-6-105 (1) (b) and (1) (d) (I), Colorado Revised Statutes, are amended to read:

12-6-105. Powers and duties of executive director. (1) The executive director is hereby charged with the administration, enforcement, and issuance or denial of the licensing of buyer agents, distributors, distributor branches, distributor representatives, factory branches, factory representatives, and motor vehicle manufacturers, and shall have the following powers and duties:

(b) To employ, subject to the laws of the state of Colorado and after consultation with the board, an executive secretary for the board. ~~and THE EXECUTIVE SECRETARY SHALL BE ACCOUNTABLE TO THE BOARD AND SHALL, PURSUANT TO DELEGATION BY THE BOARD, DISCHARGE THE RESPONSIBILITIES OF THE BOARD UNDER THIS PART 1. THE EXECUTIVE DIRECTOR MAY ALSO EMPLOY~~ such clerks, deputies, and assistants as the executive director considers necessary to discharge the duties imposed upon the executive director by this part 1 and to designate the duties of such clerks, deputies, and assistants.

(d) (I) To investigate upon the executive director's own initiative, upon the ~~sworn~~ WRITTEN AND SIGNED complaint of any person, or upon request by the board pursuant to section 12-6-104 (3) (f) (I), any suspected or alleged violation by any person licensed by the executive director pursuant to this part 1 of any of the terms and provisions of this part 1 or of any rule or regulation promulgated by the executive director under the authority conferred upon the executive director in this section;

SECTION 6. 12-6-107, Colorado Revised Statutes, is amended to read:

12-6-107. Attorney general to advise and represent. (1) The attorney general of this state shall represent the board and executive director and shall give opinions on all questions of law relating to the interpretation of this part 1 or arising out of the administration thereof and shall appear for and in behalf of the board and executive director in all actions brought by or against them, whether under the provisions of this part 1 or otherwise.

(2) THE BOARD MAY REQUEST THE ATTORNEY GENERAL TO MAKE CIVIL INVESTIGATIONS AND ENFORCE RULES AND REGULATIONS OF THE BOARD IN CASES OF CIVIL VIOLATIONS AND TO BRING AND DEFEND CIVIL SUITS AND PROCEEDINGS FOR ANY OF THE PURPOSES NECESSARY AND PROPER FOR CARRYING OUT THE FUNCTIONS OF THE BOARD.

SECTION 7. 12-6-108 (1) (b), Colorado Revised Statutes, is amended to read:

12-6-108. Classes of licenses. (1) Licenses issued under the provisions of this part 1 shall be of the following classes:

(b) Used motor vehicle dealer's license shall permit the licensee to engage in the business of selling, exchanging, leasing, or offering used motor vehicles only. Such license shall also permit a licensee to negotiate for a consumer the sale, exchange, or lease of used and new motor vehicles not owned by the licensee, except those vehicles defined in section 42-1-102 (55), C.R.S., as motorcycles and section 33-14.5-101 (3), C.R.S., as off-highway vehicles; however, the licensee shall disclose IN WRITING to

all parties prior to any such negotiation for the sale, exchange, or lease of a motor vehicle not owned by the licensee ~~the amount of~~ WHETHER THE LICENSEE WILL RECEIVE any compensation ~~to be received by the licensee~~ from the consumer and WHETHER THE LICENSEE WILL RECEIVE ANY COMPENSATION FROM the owner of the motor vehicle as a result of such transaction. PRIOR TO COMPLETION OF SUCH SALE, EXCHANGE, OR LEASE OF A MOTOR VEHICLE NOT OWNED BY THE LICENSEE, THE LICENSEE SHALL DISCLOSE IN WRITING TO ALL PARTIES THE AMOUNT OF THE COMPENSATION TO BE RECEIVED FROM THE CONSUMER AND THE AMOUNT OF COMPENSATION TO BE RECEIVED FROM THE OWNER OF THE MOTOR VEHICLE AS A RESULT OF SUCH TRANSACTION. This form of license shall permit not more than two persons named therein who shall be owners or part owners of the business of the licensee to act as motor vehicle salespersons.

SECTION 8. 12-6-110 (3) (a) and (3) (c), Colorado Revised Statutes, are amended to read:

12-6-110. Fees - disposition - expenses - expiration of licenses. (3) (a) Such licenses, if the same have not been suspended or revoked as provided in this part 1, shall be valid until ~~July 1 next~~ ONE YEAR following the ~~date~~ MONTH of issuance thereof and shall then expire; EXCEPT THAT ANY LICENSE ISSUED UNDER THIS PART 1 SHALL EXPIRE UPON THE VOLUNTARY SURRENDER THEREOF OR UPON THE ABANDONMENT OF THE LICENSEE'S PLACE OF BUSINESS FOR A PERIOD OF MORE THAN THIRTY DAYS.

(c) Upon the expiration of such license, unless suspended or revoked, the same may be renewed upon the payment of the fees specified in this section, which shall accompany applications, and such renewal shall be made from year to year as a matter of right; EXCEPT THAT, IF A MOTOR VEHICLE DEALER, USED MOTOR VEHICLE DEALER, OR WHOLESALER VOLUNTARILY SURRENDERS ITS LICENSE OR ABANDONS ITS PLACE OF BUSINESS FOR A PERIOD OF MORE THAN THIRTY DAYS, THE LICENSEE IS REQUIRED TO FILE A NEW APPLICATION TO RENEW ITS LICENSE.

SECTION 9. 12-6-111 (1) Colorado Revised Statutes, is amended to read:

12-6-111. Bond of licensee. (1) Before any motor vehicle dealer's, wholesaler's, wholesale motor vehicle auction dealer's, or used motor vehicle dealer's license shall be issued by the board through the executive director to any applicant therefor, the said applicant shall procure and file with the board evidence of a savings account, deposit, or certificate of deposit meeting the requirements of section 11-35-101, C.R.S., 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 said applicant shall not practice fraud, make any fraudulent representation, or violate any of the provisions of this part 1 THAT ARE DESIGNATED BY THE BOARD BY RULE in the conduct of the business for which such applicant is licensed.

SECTION 10. 12-6-112 (1) and (2), Colorado Revised Statutes, are amended to read:

12-6-112. Motor vehicle salesperson's bond. (1) Before any motor vehicle salesperson's license is issued by the board through the executive director to any

applicant therefor, the said applicant shall procure and file with the board evidence of a savings account, deposit, or certificate of deposit meeting the requirements of section 11-35-101, C.R.S., or a good and sufficient bond in the amount of five 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 said applicant shall perform in good faith as a motor vehicle salesperson without fraud or fraudulent representation and without the violation of any of the provisions of this part 1 THAT ARE DESIGNATED BY THE BOARD BY RULE.

(2) No corporate surety shall be required to make any payment to any person claiming under such bond until a final determination of fraud or fraudulent representation or the violation of any of the provisions of this part 1 has been made by the board or by a court of competent jurisdiction.

SECTION 11. 12-6-112.2 (1), Colorado Revised Statutes, is amended, and the said 12-6-112.2 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

12-6-112.2. Buyer agent bonds. (1) A buyer agent's license shall not be issued by the executive director to any applicant therefor until said applicant procures and files with the executive director evidence of a savings account, deposit, or certificate of deposit meeting the requirements of section 11-35-101, C.R.S., 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 said applicant shall perform in good faith as a buyer agent without fraud or fraudulent representation and without violating ANY OF THE PROVISIONS OF this part 1 THAT ARE DESIGNATED BY THE EXECUTIVE DIRECTOR BY RULE.

(3) NO CORPORATE SURETY SHALL BE REQUIRED TO MAKE ANY PAYMENT TO ANY PERSON CLAIMING UNDER SUCH 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 12. 12-6-116 (3), Colorado Revised Statutes, is amended to read:

12-6-116. Notice of change of address or status. (3) Should any motor vehicle salesperson be discharged or leave an employer or change a place of employment, the motor vehicle dealer or used motor vehicle dealer who last employed said salesperson shall confiscate and forthwith return such salesperson's license to the board. ~~The salesperson shall be notified by the board at such salesperson's last known place of residence that such salesperson's license has been returned to the board and that, upon obtaining employment again as a motor vehicle salesperson, the motor vehicle salesperson may notify the board, and thereupon a new license shall be issued for the unexpired portion of the term of the returned license at a fee established pursuant to section 12-6-110 (5).~~ It shall be unlawful for such salesperson to act as a motor vehicle salesperson until a new license is procured.

SECTION 13. Repeal. 12-6-117 (3), Colorado Revised Statutes, is repealed as follows:

12-6-117. Principal place of business - requirements. (3) ~~(a) On such site or location adequate facilities shall be maintained for reconditioning and repairing either new or used cars, but if the motor vehicle dealer or used motor vehicle dealer files, in the office of the board, a contract with a duly licensed and reputable garage with such facilities, such dealers shall not be required to maintain such reconditioning facilities at their principal place of business.~~

~~(b) If such contract is cancelled or expires, then such motor vehicle dealer or used motor vehicle dealer shall notify the board within three days after the cancellation or expiration that such dealer no longer has a valid contract in existence for the reconditioning and repairing of either new or used cars.~~

~~(c) Such dealer shall file a valid contract with a duly licensed and reputable garage within ten days after any valid and existing contract with a duly licensed and reputable garage has been cancelled or has expired.~~

SECTION 14. Repeal. 12-6-118 (3) (q), Colorado Revised Statutes, is repealed as follows:

12-6-118. Licenses - grounds for denial, suspension, or revocation. (3) A motor vehicle dealer's, wholesale motor vehicle auction dealer's, wholesaler's, buyer agent's, or used motor vehicle dealer's license may be denied, suspended, or revoked on the following grounds:

~~(q) Engaging in such business without having adequate service facilities for the reconditioning and servicing of motor vehicles or having a valid and existing contract with a duly licensed and reputable garage with such facilities;~~

SECTION 15. 12-6-118 (6), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

12-6-118. Licenses - grounds for denial, suspension, or revocation. (6) Any license issued pursuant to this part 1 may be denied, revoked, or suspended if unfitness of such licensee or licensee applicant is shown in the following:

(d) VIOLATION OF ANY LAWFUL ORDER OF THE BOARD.

SECTION 16. 12-6-118, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

12-6-118. Licenses - grounds for denial, suspension, or revocation. (7) (a) ANY LICENSE ISSUED OR FOR WHICH AN APPLICATION HAS BEEN MADE PURSUANT TO THIS PART 1 SHALL BE REVOKED OR DENIED IF THE LICENSEE OR APPLICANT HAS BEEN CONVICTED OF OR PLEADED NO CONTEST TO ANY OF THE FOLLOWING OFFENSES IN THIS STATE OR ANY OTHER JURISDICTION DURING THE PREVIOUS TEN YEARS:

(I) A FELONY IN VIOLATION OF ARTICLE 3, 4, OR 5 OF TITLE 18, C.R.S., OR ANY SIMILAR CRIME UNDER FEDERAL LAW OR THE LAW OF ANY OTHER STATE; OR

(II) A CRIME INVOLVING ODOMETER FRAUD, SALVAGE FRAUD, MOTOR VEHICLE

TITLE FRAUD, OR THE DEFRAUDING OF A RETAIL CONSUMER IN A MOTOR VEHICLE SALE OR LEASE TRANSACTION.

(b) A CERTIFIED COPY OF A JUDGMENT OF CONVICTION BY A COURT OF COMPETENT JURISDICTION OF AN OFFENSE UNDER PARAGRAPH (a) OF THIS SUBSECTION (7) IS CONCLUSIVE EVIDENCE OF SUCH CONVICTION IN ANY HEARING HELD PURSUANT TO THIS ARTICLE.

SECTION 17. 12-6-119, Colorado Revised Statutes, is amended to read:

12-6-119. Procedure for denial, suspension, or revocation of license - judicial review. The denial, suspension, or revocation of licenses issued under this part 1 shall be in accordance with the provisions of sections 24-4-104 and 24-4-105, C.R.S.; EXCEPT THAT THE DISCOVERY AVAILABLE UNDER RULE 26 (b) (2) OF THE COLORADO RULES OF CIVIL PROCEDURE IS AVAILABLE IN ANY PROCEEDING CONDUCTED BY THE BOARD. The board may appoint an administrative law judge pursuant to part 10 of article 30 of title 24, C.R.S., OR A HEARING OFFICER FROM AMONG ITS MEMBERSHIP to conduct hearings for the board. HEARINGS CONDUCTED BY A HEARING OFFICER APPOINTED FROM THE BOARD MEMBERSHIP SHALL BE IN ACCORDANCE WITH PROCEDURES ESTABLISHED BY THE BOARD. HEARINGS CONDUCTED BEFORE AN ADMINISTRATIVE LAW JUDGE SHALL BE IN ACCORDANCE WITH THE RULES OF PROCEDURE OF THE DIVISION OF ADMINISTRATIVE HEARINGS. The court of appeals shall have initial jurisdiction to review all final actions and orders that are subject to judicial review of the board. Such proceedings shall be conducted in accordance with section 24-4-106 (11), C.R.S.

SECTION 18. 12-6-122 (1), Colorado Revised Statutes, is amended to read:

12-6-122. Right of action for loss. (1) If any person suffers loss or damage by reason of any fraud practiced on such person or fraudulent representation made to such person by a licensed dealer or one of the dealer's salespersons acting for the dealer on such dealer's behalf or within the scope of the employment of the salesperson or suffers any loss or damage by reason of the violation by such dealer or salesperson of any of the provisions of this part 1 THAT ARE DESIGNATED BY THE BOARD BY RULE, whether or not such violation is the basis for denial, suspension, or revocation of a license, such person shall have a right of action against the dealer, such 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 shall not be limited to the amount of their respective bonds.

SECTION 19. 12-6-124, Colorado Revised Statutes, is amended to read:

12-6-124. Repeal of article. This article is repealed, effective July 1, ~~1998~~ 2008. Prior to such repeal, the motor vehicle dealer board and the licensing functions of the executive director shall be reviewed as provided for in section 24-34-104, C.R.S.

SECTION 20. Repeal. 24-34-104 (27) (b) (I), Colorado Revised Statutes, is repealed as follows:

24-34-104. General assembly review of regulatory agencies and functions for

termination, continuation, or reestablishment. (27) (b) The following board and functions of the specified agencies shall terminate on July 1, 1998:

(I) ~~The motor vehicle dealer board;~~

SECTION 21. 24-34-104, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (39) THE FOLLOWING AGENCIES, FUNCTIONS, OR BOTH, SHALL TERMINATE ON JULY 1, 2008: THE MOTOR VEHICLE DEALER BOARD CREATED BY SECTION 12-6-103, C.R.S.

SECTION 22. 42-3-127 (6) (b) (III), Colorado Revised Statutes, is amended to read:

42-3-127. Manufacturers or dealers. (6) (b) (III) Full-use dealer plates shall be valid for a period not to exceed one year. ~~Each full-use dealer plate shall expire on June 30 in the year of expiration.~~

SECTION 23. Effective date - applicability. This act shall take effect July 1, 1998, and shall apply to acts committed on or after said date.

SECTION 24. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 1, 1998