

CHAPTER 231

PROFESSIONS AND OCCUPATIONS

HOUSE BILL 06-1388

BY REPRESENTATIVE(S) Buescher, Benefield, Borodkin, Butcher, and Rose;
also SENATOR(S) Sandoval, Jones, Kester, and Spence.

AN ACT

CONCERNING THE ABILITY OF THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE TO ADDRESS ALLEGED VIOLATIONS RELATING TO MOTOR VEHICLE DEALERS.

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

SECTION 1. 12-6-120.3 (4), Colorado Revised Statutes, is amended to read:

12-6-120.3. New, reopened, or relocated dealer - notice required - grounds for refusal of dealer license - definitions - rules. (4) (a) If a licensee brings an action or proceeding before the executive director or a court pursuant to this part 1, the manufacturer shall have the burden of proof on the following issues:

~~(a)~~ (I) The size and permanency of investment and obligations incurred by the existing motor vehicle dealers of the same line-make located in the relevant market area;

~~(b)~~ (II) Growth or decline in population and new motor vehicle registrations in the relevant market area;

~~(c)~~ (III) The effect on the consuming public in the relevant market area and whether the opening of the proposed additional, reopened, or relocated dealer is injurious or beneficial to the public welfare; and

~~(d)~~ (IV) Whether the motor vehicle dealers of the same line-make in the relevant market area are providing adequate and convenient customer care for motor vehicles of the same line-make in the relevant market area, including but not limited to the adequacy of sales and service facilities, equipment, parts, and qualified service personnel.

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

(b) (I) IN ADDITION TO THE POWERS SPECIFIED IN SECTION 12-6-105, THE EXECUTIVE DIRECTOR HAS JURISDICTION TO RESOLVE ACTIONS OR PROCEEDINGS BROUGHT BEFORE THE EXECUTIVE DIRECTOR PURSUANT TO THIS PART 1 THAT ALLEGE A VIOLATION OF THIS PART 1 OR RULES PROMULGATED PURSUANT TO THIS PART 1. THE EXECUTIVE DIRECTOR MAY PROMULGATE RULES TO FACILITATE THE ADMINISTRATION OF SUCH ACTIONS OR PROCEEDINGS, INCLUDING PROVISIONS SPECIFYING PROCEDURES FOR THE EXECUTIVE DIRECTOR OR THE EXECUTIVE DIRECTOR'S DESIGNEE TO:

(A) CONDUCT AN INVESTIGATION PURSUANT TO SECTION 12-6-105 (1) (d) OF AN ALLEGED VIOLATION OF THIS PART 1 OR RULES PROMULGATED PURSUANT TO THIS PART 1, INCLUDING ISSUANCE OF A NOTICE OF VIOLATION;

(B) HOLD A HEARING REGARDING THE ALLEGED VIOLATION TO BE HELD PURSUANT TO SECTION 24-4-105, C.R.S.;

(C) ISSUE AN ORDER, INCLUDING A CEASE AND DESIST ORDER ISSUED PURSUANT TO SECTION 12-6-105 (1) (f), TO RESOLVE THE NOTICE OF VIOLATION; AND

(D) IMPOSE A FINE PURSUANT TO SECTION 12-6-105 (1) (f) (III).

(II) THE COURT OF APPEALS HAS INITIAL JURISDICTION TO REVIEW ALL FINAL ACTIONS AND ORDERS THAT ARE SUBJECT TO JUDICIAL REVIEW OF THE EXECUTIVE DIRECTOR MADE PURSUANT TO THIS SUBSECTION (4). SUCH PROCEEDINGS SHALL BE CONDUCTED IN ACCORDANCE WITH SECTION 24-4-106, C.R.S.

SECTION 2. 12-6-123 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

12-6-123. Disposition of fees - auto dealers license fund. (1) All moneys received under this part 1, except fines awarded pursuant to section 12-6-121.5, shall be deposited with the state treasurer by the department of revenue, subject to the provisions of section 24-35-101, C.R.S., together with a detailed statement of such receipts, and such funds deposited with the state treasurer shall constitute a fund to be known as the auto dealers license fund, which fund is hereby created and which shall be used under the direction of the board in the following manner:

(d) TO PAY THE DEPARTMENT OF REVENUE FOR THE ADMINISTRATION OF ACTIONS OR PROCEEDINGS BROUGHT BEFORE THE EXECUTIVE DIRECTOR PURSUANT TO SECTION 12-6-120.

SECTION 3. Applicability. This act shall apply to actions or proceedings occurring on or after the effective date of this act.

SECTION 4. 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 25, 2006