

SENATE, No. 2092

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED MARCH 16, 2020

Sponsored by:

Senator MICHAEL J. DOHERTY

District 23 (Hunterdon, Somerset and Warren)

SYNOPSIS

Concerns certain business requirements for motor vehicle dealers.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning certain business requirements for motor vehicle
2 dealers and amending R.S.39:10-19 and R.S.39:10-22.

3
4 BE IT ENACTED by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. R.S.39:10-19 is amended to read as follows:

8 39:10-19. No person shall engage in the business of buying,
9 selling or dealing in motor vehicles in this State, nor shall a person
10 engage in activity that would qualify the person as a leasing dealer,
11 as defined in section 2 of P.L.1994, c.190 (C.56:12-61), unless: a.
12 the person is a licensed real estate broker acting as an agent or
13 broker in the sale of mobile homes without their own motor power
14 other than recreation vehicles as defined in section 3 of P.L.1990,
15 c.103 (C.39:3-10.11), or manufactured homes as defined in section
16 3 of P.L.1983, c.400 (C.54:4-1.4); or b. the person is authorized to
17 do so under the provisions of this chapter and P.L.1985,
18 c.361 (C.56:10-26 et seq.).

19 The chief administrator may, upon application in such form as
20 the chief administrator prescribes, license any proper person as such
21 dealer or leasing dealer. A licensed real estate broker shall be
22 entitled to act as an agent or broker in the sale of a mobile or
23 manufactured home as defined in subsection a. of this section
24 without obtaining a license from the chief administrator. For the
25 purposes of this chapter, a "licensed real estate broker" means a real
26 estate broker licensed by the New Jersey Real Estate Commission
27 pursuant to the provisions of chapter 15 of Title 45 of the Revised
28 Statutes. Any sale or transfer of a mobile or manufactured home, in
29 which a licensed real estate broker acts as a broker or agent
30 pursuant to this section, which sale or transfer is subject to any
31 other requirements of R.S.39:10-1 et seq., shall comply with all of
32 those requirements.

33 No person who has been convicted of a crime, arising out of
34 fraud or misrepresentation in the sale, leasing or financing of a
35 motor vehicle, shall be eligible to receive a license, but nothing in
36 this section shall be construed as superseding P.L.1968,
37 c.282 (C.2A:168A-1 et seq.). For the purposes of this section, each
38 applicant for a license shall submit to the chief administrator the
39 applicant's name, address, fingerprints, and written consent for a
40 criminal history record background check to be performed. The
41 chief administrator is hereby authorized to exchange fingerprint
42 data with and receive criminal history record information from the
43 State Bureau of Identification in the Division of State Police and the
44 Federal Bureau of Investigation consistent with applicable State and
45 federal laws, rules, and regulations, for purposes of facilitating
46 determinations concerning licensure eligibility. The applicant shall
47 bear the cost for the criminal history record background check,

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 including all costs of administering and processing the check. The
2 Division of State Police shall promptly notify the chief
3 administrator in the event a current holder of a license or
4 prospective applicant, who was the subject of a criminal history
5 record background check pursuant to this section, is arrested for a
6 crime or offense in this State after the date the background check
7 was performed.

8 Each applicant for a license to sell new and used vehicles shall at
9 the time such license is issued have established and maintained, or
10 by that application shall agree to establish and maintain, within 90
11 days after the issuance thereof, a place of business consisting of a
12 permanent building not less than 1,000 square feet in floor space
13 located in the State of New Jersey to be used principally for the
14 servicing and display of motor vehicles with such equipment
15 installed therein as shall be requisite for the servicing of motor
16 vehicles in such manner as to make them comply with the laws of
17 this State and with any rules and regulations made by the board
18 governing the equipment, use, and operation of motor vehicles
19 within the State.

20 Each applicant for a license to sell used motor vehicles shall at
21 the time the license is issued have established and maintained, or by
22 that application shall agree to establish and maintain, within 90
23 days after the issuance thereof, a place of business which is located
24 in the State of New Jersey and conforms to all applicable
25 ordinances of the municipality in which the place of business is
26 located, as evidenced by a certificate of occupancy issued to the
27 dealer, and includes the following: office space with a minimum of
28 72 square feet within a permanent, enclosed building; a desk;
29 chairs; a secured, locking filing cabinet or locking safe for
30 document storage; a landline telephone, for which call forwarding
31 or answering services are prohibited; if the office space is within a
32 facility with other used motor vehicles dealers, each office shall be
33 separated by interior walls and include a separate entrance to each
34 office; and a display area, identified with the licensee's name,
35 sufficient in size to display two motor vehicles.

36 Nothing in this chapter shall be construed as requiring a used
37 motor vehicle dealer to maintain an office which is separated from
38 any other licensee or separated from any other office by exterior
39 walls or a firewall, unless that requirement is imposed by a code
40 adopted by the Commissioner of Community Affairs pursuant to the
41 "Uniform Fire Safety Act," P.L.1983, c.383 (C.52:27D-192 et seq.),
42 or the "State Uniform Construction Code Act," P.L.1975,
43 c.217 (C.52:27D-119 et seq.) or an ordinance of the municipality in
44 which the place of business is located. Nothing in this chapter shall
45 be construed as prohibiting a motor vehicle dealer's authorized
46 signatory from simultaneously representing more than one dealer at
47 any given time during the business hours of any dealer so
48 represented. Consistent with section 5 of P.L.1983,

1 c.496 (C.52:27D-123.1), nothing in this chapter shall be construed
2 as authorizing the New Jersey Motor Vehicle Commission to
3 promulgate rules or regulations that regulate the structure, design,
4 construction, maintenance and use of buildings or structures to be
5 erected as a place of business, or that regulate the alteration,
6 renovation, repair, maintenance and use of buildings or structures
7 already erected as a place of business.

8 **【However, a】** A leasing dealer, who is not engaged in the
9 business of buying, selling, or dealing in motor vehicles in the
10 State, shall not be required to maintain a place of business with
11 floor space available for the servicing or display of motor vehicles
12 or to have an exterior sign at the lessor's place of business.

13 A license fee of \$200 shall be paid by an applicant upon the
14 applicant's initial application for a license. The chief administrator
15 may renew an applicant's license upon application for renewal on a
16 form prescribed by the chief administrator and accompanied by a
17 renewal fee of \$200. Every license shall expire 24 months from the
18 date on which it is issued. The chief administrator may, at the chief
19 administrator's discretion and for good cause shown, extend an
20 applicant's license for an additional period not to exceed 12 months
21 from the date on which it is scheduled to expire. The chief
22 administrator may, at the chief administrator's discretion and for
23 good cause shown, issue a license which shall expire on a date fixed
24 by the chief administrator. The fee for licenses with an expiration
25 date fixed by the chief administrator shall be fixed by the chief
26 administrator in an amount proportionately less or greater than the
27 fee established herein.

28 For the purposes of this section, a leasing dealer or an assignee
29 of a leasing dealer whose leasing activities are limited to buying
30 motor vehicles for the purpose of leasing them and selling motor
31 vehicles at the termination of a lease shall not be deemed to be
32 engaged in the business of buying, selling, or dealing in motor
33 vehicles in this State.

34 (cf: P.L.2015, c.24, s.1)

35
36 2. R.S.39:10-22 is amended to read as follows:

37 39:10-22. a. The chief administrator may prepare and prescribe
38 any or all forms necessary for the proper administration of this
39 chapter. The chief administrator or **【his】** the chief administrator's
40 agent may seize and take possession of any certificate of ownership
41 or other title papers to which the chief administrator may be entitled
42 under this chapter, for which a person is under duty to return to the
43 chief administrator, from any person or place in this State, with all
44 the rights, privileges and immunities conferred by law on an officer
45 executing a writ of replevin.

46 b. A licensed dealer of new and used motor vehicles and a
47 licensed dealer of used motor vehicles shall not be required to
48 maintain any office hours.

1 c. A licensed dealer of new and used motor vehicles and a
2 licensed dealer of used motor vehicles, including their authorized
3 signatory, shall be present at the dealership on the day, date and
4 time of a scheduled audit, inspection or investigation, which audit,
5 inspection or investigation shall be scheduled at least five business
6 days in advance, in writing, by the chief administrator of the chief
7 administrator's agent. Nothing in this section shall be construed as
8 requiring a licensed dealer of used motor vehicles, including the
9 dealer's authorized signatory, to be present at the dealership except
10 on the day, date and time of audit, inspection or investigation, as set
11 forth in this subsection.

12 d. [A] All licensed [dealer] motor vehicle dealers shall keep
13 and store all required forms, papers, and records as the New Jersey
14 Motor Vehicle Commission may by regulation require under this
15 chapter at the licensed premises, except that the required forms,
16 papers, and records may be temporarily removed from the premises
17 of the licensed dealer for any business purpose, including but not
18 limited to, acquiring a motor vehicle, certificate of origin,
19 certificate of ownership, or title papers, by the licensed dealer. In
20 the event a licensee operates multiple licensed dealerships under
21 common ownership or control, [such] the required forms, papers,
22 and records may be stored at a centralized record-keeping facility.

23 e. In the event of an unannounced audit, unannounced
24 inspection or unannounced investigation by the commission of the
25 place of business of a licensed dealer of new and used motor
26 vehicles or licensed dealer of used motor vehicles which results in
27 the finding of a violation of subsection d. of this section, or the
28 regulations promulgated pursuant to this section, the chief
29 administrator or the chief administrator's agent shall permit the
30 licensed dealer three business days, from the time that a notice of
31 the proposed violation is received by the licensed dealer, to provide
32 proof that the licensed dealer was in compliance with the provisions
33 of subsection d. of this section at the time of the unannounced audit,
34 unannounced inspection or unannounced investigation. The
35 licensed dealer shall not be subject to the imposition of a fine,
36 suspension of license, or revocation of license if the proof provided
37 by the licensed dealer is determined to be sufficient by the chief
38 administrator or the chief administrator's agent.

39 (cf: P.L.2007, c.335, s.27)

40
41 3. This act shall take effect immediately.
42
43

44 STATEMENT

45
46 This bill amends R.S.39:10-19 to clarify the requirements for an
47 established place of business of a licensed used motor vehicle
48 dealer and allows a licensed dealer of new and used motor vehicles

1 or a licensed dealer of used motor vehicles (dealer) to temporarily
2 remove from the dealer's premises the forms, papers, and records
3 required by the New Jersey Motor Vehicle Commission (MVC), if
4 the documents were removed for a business purpose, including but
5 not limited to, acquiring a motor vehicle, certificate of origin,
6 certificate of ownership, or title papers by the dealer.

7 The bill also provides that in the event of an unannounced audit,
8 inspection or investigation by MVC of the premises of the dealer
9 which results in the finding of a record-keeping violation, the Chief
10 Administrator of the MVC (chief administrator) or the chief
11 administrator's agent must permit the dealer three business days,
12 from the time the notice of the violation is received, to provide
13 proof that the dealer was in compliance with the law at the time of
14 the unannounced audit, inspection or investigation. The dealer will
15 not be subject to the imposition of a fine, suspension of license, or
16 revocation of license if the proof provided by the dealer is
17 determined to be sufficient by the chief administrator or the chief
18 administrator's agent.

19 With respect to a used motor vehicle dealer, the bill requires, at
20 the time the license is issued, the dealer to have established and
21 maintained, or by that application shall agree to establish and
22 maintain, within 90 days after the issuance thereof, a place of
23 business which is located in the State of New Jersey and conforms
24 to all applicable ordinances of the municipality in which the place
25 of business is located, as evidenced by a certificate of occupancy
26 issued to the dealer, and includes the following:

- 27 - office space with a minimum of 72 square feet within a
28 permanent, enclosed building; a desk; chairs; a secured,
29 locking filing cabinet or locking safe for document storage; a
30 landline telephone, for which call forwarding or answering
31 services are prohibited; if the office space is within a facility
32 with other used motor vehicles dealers, each office shall be
33 separated by interior walls and include a separate entrance to
34 each office; and
- 35 - a display area, identified with the licensee's name, sufficient
36 in size to display two motor vehicles.

37 The bill also clarifies that, nothing in this law shall be construed
38 as:

- 39 - requiring a used motor vehicle dealer to maintain an office
40 which is separated from any other licensee or separated from
41 any other office by exterior walls or a firewall, unless that
42 requirement is imposed by a code adopted by the
43 Commissioner of Community Affairs pursuant to the
44 "Uniform Fire Safety Act," P.L.1983, c.383 (C.52:27D-
45 192 et seq.), or the "State Uniform Construction Code Act,"
46 P.L.1975, c.217 (C.52:27D-119 et seq.) or an ordinance of
47 the municipality in which the place of business is located;

- 1 - prohibiting a motor vehicle dealer's authorized signatory
- 2 from simultaneously representing more than one dealer at any
- 3 given time during the business hours of any dealer so
- 4 represented; and
- 5 - consistent with section 5 of P.L.1983, c.496 (C.52:27D-
- 6 123.1), authorizing the New Jersey Motor Vehicle
- 7 Commission to promulgate rules or regulations that regulate
- 8 the structure, design, construction, maintenance and use of
- 9 buildings or structures to be erected as a place of business, or
- 10 that regulate the alteration, renovation, repair, maintenance
- 11 and use of buildings or structures already erected as a place
- 12 of business.

13 The bill also clarifies that the provision in the current law that
14 provides that no person who has been convicted of a crime, arising
15 out of fraud or misrepresentation in the sale, leasing or financing of
16 a motor vehicle, shall be eligible to receive a license as a dealer.
17 The bill clarifies that this provision shall not be construed as
18 superseding P.L.1968, c.282 (C.2A:168A-1 et seq.). That law
19 provides that a person shall not be disqualified or discriminated
20 against by any licensing authority because of any conviction for a
21 crime, unless N.J.S. 2C:51-2 is applicable or unless the conviction
22 relates adversely to the occupation, trade, vocation, profession or
23 business for which the license or certificate is sought.