

**CHAPTER 216 (HB 69)**

AN ACT relating to licensing of motor vehicle dealers, manufacturers, and distributors.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 190.030 is amended to read as follows:

- (1) A motor vehicle dealer, new, used, or auction motor vehicle dealer, motor vehicle leasing dealer, restricted motor vehicle dealer, motorcycle dealer, broker, wholesaler, automotive recycling dealer, or a salesman of motor vehicles shall not engage in business in this state without a license as provided in KRS 190.010 to 190.080. If a person acts as a motor vehicle salesman, he shall secure a motor vehicle salesman's license in addition to a license for a motor vehicle dealer. The motor vehicle commission may provide by administrative regulation for other licensee activities and an appropriate fee.
- (2) A manufacturer of motor vehicles, factory branch, distributor, distributor branch, or wholesaler shall not engage in business in this state without a license as provided in KRS 190.010 to 190.080.
- (3) A factory representative or distributor representative shall not engage in business in this state without a license as provided in KRS 190.010 to 190.080.
- (4) Application for license shall be made to the licensor, at a time, in a form, and containing information the licensor shall require and shall be accompanied by the required fee. The licensor may require in the application, or otherwise, information relating to the applicant's solvency, his financial standing, or other pertinent matter commensurate with the safeguarding of the public interest in the locality in which the applicant proposes to engage in business. The information may be considered by the licensor in determining the fitness of the applicant to engage in business as set forth in this section.
- (5) All licenses shall be granted or refused within thirty (30) days after submission of a complete application and shall expire, unless revoked or suspended, on December 31 of the calendar year for which they are granted. If a complaint of unfair cancellation of dealer franchise is in the process of being heard, a replacement application for the franchise shall not be considered until a decision is rendered by the commission.
- (6) The license fee for a calendar year, or part thereof, shall be as follows:
  - (a) For new motor vehicle dealers, one hundred dollars (\$100) for each office or branch or agent thereof, plus one hundred dollars (\$100) for a supplemental license for each used car lot not immediately adjacent to the office or to a branch.
  - (b) For used motor vehicle dealers, one hundred dollars (\$100) for each office or branch or agent thereof.
  - (c) For motor vehicle leasing dealers, one hundred dollars (\$100) for each office or branch or agent thereof.
  - (d) For restricted motor vehicle dealers, one hundred dollars (\$100) for each office or branch or agent thereof.
  - (e) For motorcycle dealers, one hundred dollars (\$100) for each office, branch, or agent thereof.

- (f) For motor vehicle manufacturers, one hundred dollars (\$100); and for each factory branch in this state, one hundred dollars (\$100).
  - (g) For distributors, motor vehicle auction dealers or wholesalers, the same as for dealers.
  - (h) For motor vehicle salesmen, ten dollars (\$10).
  - (i) For factory representatives, or distributor branch representatives, one hundred dollars (\$100).
- (7) The licenses of dealers, manufacturers, factory branches, distributors, and distributor branches shall specify the location of the office or branch and shall be conspicuously displayed there. If the location is changed, the licensor shall **endorse**~~[indorse]~~ the change of location on the license~~[ without charge if it is within the same municipality, if the licensee meets the requirements set forth by the commission through administrative regulations and pays a fee of one hundred dollars (\$100)].~~ **A licensee shall not be charged a fee for changing locations.** A change of location~~[ to another municipality]~~ shall require a new **application**~~[license]~~.
- (8) Every salesman, factory representative, or distributor representative shall carry his license when engaged in business, and display it upon request. The license shall name his employer; and in case of a change of employer, the salesman shall immediately mail his license to the licensor who shall indorse the change on the license without charge.
- (9) If the licensor has reasonable cause to doubt the financial responsibility or the compliance by the applicant or licensee with the provisions of this statute, the licensor may require the applicant or licensee to furnish and maintain a bond in a form, amount and with sureties not less than fifteen thousand dollars (\$15,000), conditioned upon the applicant or licensee complying with the provisions of the statutes applicable to the licensee. The bonds shall be executed in the name of the State of Kentucky for the benefit of any aggrieved parties, but the penalty of the bond shall not be invoked except after a court adjudication. The commission may promulgate administrative regulations to permit the applicant to submit evidence, in lieu of posting bond, that reliable financial arrangements, deposits, or commitments exist providing assurance, substantially equivalent to that afforded by a bond complying with this subsection, for payment on conditions and indemnity set forth in this subsection. The bonding requirements of this subsection shall not apply to manufacturers, factory branches, and their agents.
- (10) Application for dealer's license shall be submitted to the commission and contain information the commission may require. A motor vehicle dealer, unless licensed under KRS 190.010 to 190.080, shall not be permitted to register, receive, or use any motor vehicle registration plates.
- (11) Every motor vehicle dealer licensed in accordance with the provisions of this section shall make reports to the licensor at intervals and show information the licensor may require.

Section 2. KRS 190.040 is amended to read as follows:

- (1) A license may be denied, suspended, or revoked on the following grounds:
  - (a) Proof of financial or moral unfitness of applicant;
  - (b) Material misstatement in application for license;
  - (c) Filing a materially false or fraudulent tax return as certified by the Revenue Cabinet;

- (d) Willful failure to comply with any provision of this chapter or any administrative regulation promulgated under this chapter;
- (e) Willfully defrauding any retail buyer to the buyer's damage;
- (f) Willful failure to perform any written agreement with any buyer;
- (g) Failure or refusal to furnish and keep in force any bond required;
- (h) Having made a fraudulent sale, transaction, or repossession;
- (i) False or misleading advertising;
- (j) Fraudulent misrepresentation, circumvention, or concealment through subterfuge or device of any of the material particulars or the nature of them required to be stated or furnished to the retail buyer;
- (k) Employment of fraudulent devices, methods, or practices in connection with compliance with the requirements under the statutes of this state with respect to the retaking of goods under retail installment contracts and the redemption and resale of goods;
- (l) Having violated any law relating to the sale, distribution, or financing of motor vehicles;
- (m) Being a manufacturer of motor vehicles, factory branch, distributor, field representative, officer, agent, or any representative of the motor vehicle manufacturer or factory branch, who has induced, coerced, or attempted to induce or coerce any automobile dealer to accept delivery of any motor vehicle, vehicles, parts, accessories, or any other commodities that shall not have been ordered by the dealer;
- (n) Being a manufacturer of motor vehicles, factory branch, distributor, field representative, officer, agent, or any representative of a motor vehicle manufacturer or factory branch, who has attempted to induce or coerce, or has induced or coerced, any automobile dealer to enter into any agreement with a manufacturer, factory branch, or representative, or to do any other act unfair to the dealer, by threatening to cancel any franchise existing between a manufacturer, factory branch, or representative and the dealer;
- (o) Being a manufacturer, factory branch, distributor, field representative, officer, agent, or any representative of a motor vehicle manufacturer or factory branch, who has unfairly, without due regard to the equities of the dealer and without just provocation, canceled the franchise of any motor vehicle dealer. The nonrenewal of a franchise or selling agreement without just provocation or cause shall be deemed an evasion of this section and shall constitute an unfair cancellation;
- (p) Being a **manufacturer, factory branch, distributor, field representative, officer, agent, or any representative of a motor vehicle manufacturer or factory branch**, or wholesaler who makes, attempts to make, or aids or abets the making of a sale of a motor vehicle to a person other than a licensed motor vehicle dealer. This section shall not prevent any **manufacturer**~~[license holder]~~ from **offering discounts or rebates on**~~[selling]~~ any motor vehicle to any of its employees;
- (q) Being a dealer who advertises for sale a new motor vehicle unless he is a dealer operating under a franchise with a licensed manufacturer, factory branch, or distributor authorizing the sale of the new motor vehicle being advertised.

- (2) The licensor may deny the application for a license within thirty (30) days after receipt thereof by written notice to the applicant, stating the grounds for denial. Upon request by the applicant whose license has been denied, the licensor shall set the time and place of hearing a review of denial, to be conducted in accordance with KRS Chapter 13B.
- (3) A license shall not be suspended or revoked except after a hearing conducted in accordance with KRS Chapter 13B.
- (4) The commission may inspect the pertinent books, letters, records, and contracts of a licensee.
- (5) If a licensee is a firm or corporation, it shall be sufficient cause for the denial, suspension, or revocation of a license that any officer, director, or trustee of the firm or corporation, or any member in case of a partnership, has been guilty of any act or omission which would be cause for refusing, suspending, or revoking a license to the party as an individual. Each licensee shall be responsible for the acts of any or all of his salesmen while acting as his agent, if the licensee approved of or had knowledge of the acts and after approval or knowledge retained the benefit, proceeds, profits, or advantages accruing from the acts.
- (6) Any licensee or other person in interest who is dissatisfied with a final order of the commission may appeal to the Franklin Circuit Court and to the Court of Appeals in the manner provided by KRS Chapter 13B.

**Approved March 29, 2000**