



SPONSOR: Rep. Matthews & Sen. Hansen & Sen. Lockman  
Rep. Mitchell; Sens. Ennis, Gay, Sokola, Walsh

HOUSE OF REPRESENTATIVES  
151st GENERAL ASSEMBLY

HOUSE BILL NO. 401

AN ACT TO AMEND TITLE 21 OF THE DELAWARE CODE RELATING TO VEHICLE DEALERSHIP OWNERS LICENSES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1           Section 1. Amend Chapter 63, Title 21 of the Delaware Code by making deletions as shown by strike through and  
2     insertions as shown by underline as follows:

3           § 6302. License requirements.

4           (a) Department approval. — No person, corporation, partnership, proprietorship or any other legal entity shall  
5     carry on or conduct the business of buying, selling or dealing in new or used vehicles unless issued a dealer's license by the  
6     Department. A dealer license issued under this title is not transferrable.

7           (b) Application. — Application for a dealer's license shall be made upon the form prescribed by the Department  
8     and shall contain the name and address of the applicant. When the applicant is a partnership the name and address of each  
9     partner shall appear on the application. When the application is a corporation, the names of the principal officers of the  
10    corporation, the state in which incorporated, the place or places where the business is to be conducted and such other  
11    information as may be required by the Department shall appear on the application. Every such application shall contain a  
12    certification by the applicant that the information provided is true and accurate to the best of the applicant's knowledge.

13          (c) Resident requirements. — The owner of a dealership must have been issued a Delaware driver's license and  
14    established residency in Delaware at least 90 days prior to the time of application. Franchised and new vehicle dealers are  
15    exempted from this requirement.

16          (d) Age requirement. — The applicant must be at least 18 years of age on the date the application is submitted to the  
17    Department.

18          (e) Fingerprinting requirement.

19                (1) An applicant seeking a license or license renewal, if more than 5 years have passed since original licensure  
20    process, must submit fingerprints and other necessary information in order to obtain a report of the applicant's entire  
21    criminal history record from the State Bureau of Identification or a statement from the State Bureau of Identification  
22    that the State Central Repository contains no such information relating to the applicant.

(2) All information obtained under this subsection shall be forwarded to the Division for review to determine the applicant's suitability for licensure pursuant to § 6313 of this title. Information obtained under this subsection is confidential and may only be disclosed to the Director of the Division or the Director's designee. The State Bureau of Identification may release subsequent criminal history to the Division.

(d) (f) Fee. — No fee for a license is charged by the Department. However, all dealerships must obtain a yearly dealer business license from the Department of Finance, Division of Revenue. Wholesale dealers shall also obtain an additional wholesale license pursuant to § 6307 of this title. The business license(s) must be kept at the business location and be available for inspection by the Department.

§ 6313. Grounds for denying application for, or renewal of, dealer license; suspension or revocation of license [For application of this section, see 79 Del. Laws, c. 161, § 5]

A dealer license or renewal of license, applied for or issued pursuant to this chapter may be denied, suspended, or revoked for any 1 of the following reasons:

(1) Material misstatement or omission on the original or renewal application for a dealer license.

(2) Failure to maintain an established place of business, business phone or Division of Revenue Dealer Business License.

(3) Failure to comply subsequent to receipt from the Division of a cease and desist order or a written warning or arrest.

(4) Failure to comply with this title or Title 30.

(5) ~~Conviction of the dealership licensee or licensees of any fraudulent or criminal act in violation of Title 11 or Title 30 in connection with the business of selling vehicles.~~ of a felony in this state or any other jurisdiction. For waiver of a felony conviction, at the time of application, more than 10 years must have elapsed since the date of conviction. At the time of the application the applicant may not be incarcerated, on work release, on probation, on parole, or serving any part of a suspended sentence, and must be in substantial compliance with all court orders pertaining to fines, restitution, and community service.

(6) Conviction of a misdemeanor involving theft, fraud, dishonesty, false pretense, or moral turpitude, in this state or any other jurisdiction. For waiver of a misdemeanor conviction, at the time of application, more than 5 years must have elapsed since the date of conviction. At the time of application the applicant may not be incarcerated, on work release, on probation, on parole, or serving any part of a suspended sentence, and must be in substantial compliance with all court orders pertaining to fines, restitution, and community service.

52           (7) The Department will defer any license application or renewal if the applicant has pending felony or  
53           misdemeanor charges, as specified in paragraphs (5) and (6) of this section, during the pendency of the charges.

54           (8) Failure of the applicant to notify the Department within 72 hours of any known change in criminal history.

55           ~~(6)~~ (9) The Department makes a determination, so far as can be ascertained, that the applicant or licensee no  
56           longer meets the standard set forth in § 6312 of this title.

57           ~~(7)~~ (10) Failure to maintain a service facility, if the licensee is a dealer of new recreational vehicles.  
58           Recreational vehicle dealers with multiple locations in Delaware may maintain a service facility at 1 location to satisfy  
59           this requirement.

60           ~~(8)~~ (11) The applicant was a previous holder of a license that was suspended or revoked by the Department  
61           and the terms of such suspension have not been satisfied.

62           ~~(9)~~ (12) The applicant or licensee solely employs call forwarding, telephone answering services and/or mail  
63           forwarding services during scheduled business hours or otherwise sells motor vehicles from a remote or otherwise  
64           unlicensed location.

65           (13) Failure to maintain fiscal responsibility including failure to timely file personal and business federal and  
66           state tax returns.

#### SYNOPSIS

This Act amends Title 21 to specify the requirements for an applicant to obtain or renew a motor vehicle dealer license and aligns the requirements with other state licensing requirements. The current law only requires the applicant to show they have and will comply with the laws of this state and other states. Due to the statute's current ambiguity the Division of Motor Vehicles is often asked to review an applicant's criminal history prior to submission of a full application which makes it difficult for the Division to determine if the applicant qualifies for licensure.