



SPONSOR: Rep. Osienski & Sen. Hansen
Reps. Ramone, K. Williams; Sen. Walsh

HOUSE OF REPRESENTATIVES
151st GENERAL ASSEMBLY

HOUSE BILL NO. 24

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

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

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

§ 6314A Effect of Suspension, Revocation, or Renewal Refusal on Licensee.

(a) Dealers who have their dealer license suspended, revoked, or renewal refused pursuant to title 21 are prohibited from being employed at any dealership licensed pursuant to title 21 in any of the following positions:

(1) Manager.

(2) Sales person in any capacity.

(3) Authorized signer.

(4) Any other position in which the individual would interact with customers, handle financial transactions, or complete any paperwork required to be submitted to the Division.

(b) Dealers who have their dealer license suspended, revoked, or renewal refused pursuant to title 21 are prohibited from being employed in any of the capacities listed in this section for the following time periods:

(1) If a license is revoked, for five (5) years from the effective date of the revocation.

(2) If a license is suspended, for the length of the suspension from the effective date of the suspension.

(3) If renewal is refused, for twelve months from the date that the dealer received the certified letter sent pursuant to § 6314(a) or any time period set forth in a decision issued by the Division on appeal. If the certified letter is unable to be delivered, the twelve (12) month period will start 30 days after the Division mails the certified letter required by § 6314(a).

(4) If the dealer receives a notice pursuant to § 6314 that its license will be suspended, or renewal refused, and the dealer chooses not to request a hearing pursuant to § 6314(a), for twelve (12) months from the date that the dealer received the certified letter sent pursuant to § 6314(a). If the certified letter is unable to be delivered, the twelve (12) month period will start 30 days after the Division mails the certified letter required by § 6314(a)(4).

(5) If the dealer receives a notice pursuant to § 6314 that its license will be revoked and the dealer chooses not to request a hearing pursuant to § 6314(a), for five (5) years from the date that the dealer received the certified letter sent pursuant to § 6314(a). If the certified letter is unable to be delivered, the five (5) year period will start 30 days after the Division mails the certified letter required by § 6314(a)(4).

(c) The Division shall notify any dealer subject to the restrictions set forth in this section by certified mail, return receipt requested, addressed to the last known address as shown on the license or dealership application or other record of information in possession of the Division, to turn in all documentation required by § 6316. If the dealer does not return the documentation required by § 6316 within ten (10) days from the date that the dealer receives the certified letter, the time periods set forth above will be extended out by one day for every day past day ten (10) the § 6316 documentation is outstanding. If the certified letter is unable to be delivered, the counting for the purposes of the extension period will start thirty (30) days after the Division mails the certified letter. The Division shall notify the dealer in writing on a monthly basis of any extensions for failure to turn in documentation required by § 6316. If the documentation required by § 6316 is not turned in within six (6) months from the date required in this section, the time periods set forth above will be extended indefinitely. A dealer may turn in documentation at any time after the six (6) month period and the prohibited employment time period will end twelve (12) months after the date the documentation is turned in, or when the extended time period was set to end, whichever is longer.

(d) The prohibitions set forth in this section apply to any individual licensee, or if the licensee is a partnership, each individual partner listed on the application submitted pursuant to § 6302, or if the licensee is a corporation, the individual or individuals who signed the application submitted pursuant to § 6302 on behalf of the corporation.

(e) Should the Division learn that a dealer has been employed in violation of the section, the period of time set forth in this section shall be extended by six (6) months for every month the dealer is employed in violation of this section. The Division shall notify the dealer of any violation in writing by certified mail, return receipt requested, addressed to the last known address as shown on the license or dealership application or other record of information in possession of the Division. The written notice shall inform the dealer of the following:

(1) This Division's intention to extend the suspension, revocation, or other time period set forth in this section.

(2) The nature of the violations by the dealer.

(3) The notice shall inform the dealer of its right to request a hearing to dispute the violation. The hearing must be requested within 10 days from earlier of the dates that the dealer received the certified letter or the Division received the return receipt on the certified letter.

52 (4) The notice shall inform the dealer of its right to present evidence, to be represented by counsel and to
53 appear personally or by other representative at the hearing.

54 (f) Any hearings requested by a dealer under this section shall follow the procedures set forth in §§ 6314(b) and
55 6315.

SYNOPSIS

This legislation closes several loopholes that dealers have been using to get around suspended or revoked dealership licenses. Currently the Division of Motor Vehicles will suspend or revoke a dealer license, and the dealer will get a family member or friend to apply for a dealership license and employ the suspended dealer at the dealership in a managerial, financial, or sales capacity thereby negating the suspension or revocation. This legislation closes that loophole by preventing a dealer who has had their license suspended, revoked, or renewal refused from being employed at Delaware licensed dealerships for periods of time commensurate with their revocation or suspension. Additionally, to prevent a further loophole wherein the dealer would simply turn in their dealer license upon receiving notice by the Division that their license will be revoked, suspended, or renewal refused, if the licensee chooses not to defend themselves they would be prohibited for the same time periods as if their license had been suspended, revoked, or renewal refused and be unable to do any of the qualifying employment for that period of suspension. This bill also extends the period of time of prohibited employment if the dealer does not turn in division documents and plates in its possession at the time of suspension or revocation. This bill does not seek to bar individuals from employment in other auto industry sectors such as auto repairs so long as they do not work at those dealerships in any of the prohibited positions.