

CHAPTER 465

H.B. No. 1953

An Act relating to the regulation of dealers and manufacturers of certain motor vehicles.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Subsection (1), Section (a), Article 6686, Revised Statutes, is amended to read as follows:

(1) **Dealer's License Plate.** Any dealer ~~in~~ who sells any of the following types of vehicles: (1) motor vehicles, (2) motorcycles, (3) house trailers, or (4) trailers [;] or semitrailers, doing business in this State may, instead of registering each vehicle he operates or permits to be operated for any reason upon the streets or public highways, apply for and secure one or more ~~a general distinguishing number and master~~ dealer's license plates for the type of vehicles he sells and for which he has been assigned a general distinguishing number ~~[plate]~~ which may be attached only to the type of ~~[any such]~~ vehicle he sells, and which he owns, ~~[and]~~ operates or permits to be operated unregistered upon the streets or public highways. ~~[Each dealer holding a current distinguishing number and master dealer's license plate may apply for and be issued additional or supplemental metal dealer's plates, as hereinafter provided, which may be attached to any vehicle which he owns and operates or permits to be operated unregistered in the same manner as a vehicle operated on the master dealer's license plate.]~~ A dealer within the meaning of this Act means any person, firm, or corporation holding a currently valid general distinguishing number for the sale of ~~[regularly and actively engaged in the business of buying, selling, or exchanging]~~ (1) motor vehicles, (2) motorcycles, (3) house trailers, or (4) trailers [;] or semitrailers at an established and permanent place of business [; provided, however, that at each such place of business a sign in letters at least six (6) inches in height must be conspicuously displayed showing the name of the dealership under which such dealer is doing business, and that each such place of business must have a furnished office and, except for dealers who are licensed by the Texas Motor Vehicle Commission pursuant to the Texas Motor Vehicle Commission Code and dealers who sell vehicles to or exchange vehicles with no person other than another dealer licensed under this Act, sufficient space to display five (5) vehicles of the type customarily bought, sold, or exchanged by such dealer].

SECTION 2. Section (a), Article 6686, Revised Statutes, is amended by adding Subsection (1-A) to read as follows:

(1-A) **General Distinguishing Number.** (i) In this subsection, "person" means an individual, firm, partnership, corporation, or other legal entity.

(ii) In this subsection, "dealer" means a person regularly and actively engaged in the business of buying, selling, or exchanging (1) motor vehicles, (2) motorcycles, (3) house trailers, or (4) trailers or semitrailers.

(iii) Except as provided by Subdivision (iv) of this subsection, no person may engage in business as a dealer in (1) motor vehicles, (2) motorcycles, (3) house trailers, or (4) trailers or semitrailers, either directly or indirectly or by consignment, unless that person has a currently valid general distinguishing number assigned by the Department.

(iv) The provisions of Subdivision (iii) of this subsection do not apply to a person who sells or offers for sale fewer than five (5) vehicles of the same type in a calendar year if the person owns the vehicles and if the vehicles are registered in his name.

(v) A person who engages in business as a dealer in this State shall make application to the Department for a general distinguishing number authorizing him to reassign manufacturer's certificates of origin, certificates of title, or other basic evidences of ownership for the vehicles he sells. No person may reassign a manufacturer's certificate of origin, certificate of title, or other basic evidence of ownership until he has been issued a general distinguishing number hereunder. An applicant shall specify whether he proposes to be a dealer in (1) motor vehicles, (2) motorcycles, (3) house trailers, or (4) trailers or semitrailers. If the applicant proposes to secure the issuance of dealer's license plates under Subsection (1) of this section for attachment to

more than one type of such vehicles, a separate general distinguishing number is required for each. Except as otherwise provided by law or regulation of the Department, a dealer holding a general distinguishing number for a particular type of vehicle may operate thereunder from more than one location within the limits of a city, but a separate and distinct general distinguishing number, supported by the affirmations and accompanied by the fees required herein, shall be required for any other location. A dealer holding a general distinguishing number may reassign a manufacturer's certificate of origin, certificate of title, or other basic evidence of ownership of any type of vehicle owned by him and which he is not otherwise prohibited by law from selling; provided, however, that such dealer may reassign a manufacturer's certificate of origin, certificate of title or other basic evidence of ownership of a motor vehicle owned by him and which he is not otherwise prohibited by law from selling only if he has complied with Subdivision (vii) of this subsection or is licensed by the Texas Motor Vehicle Commission.

(vi) The Department may not issue a general distinguishing number to a person until the person has filed with the Department a sworn application showing and swearing to the truth of the following:

(A) that the location for which the applicant seeks the issuance of a general distinguishing number is an established and permanent place of business situated on real property owned, or leased by him under a written lease for a term of not less than one year, on which the applicant maintains a permanent furnished office for the sale of vehicles of the type specified in his application and equipped as required by the Department, a conspicuous sign with letters at least six inches in height showing the name of the applicant's business, and on which the applicant has sufficient space to display at least five (5) vehicles of the type specified in his application, except that a dealer who buys, sells, or exchanges vehicles with no person other than another dealer holding a general distinguishing number is not required to maintain display space;

(B) that the applicant intends to remain in business for at least one year at the specified location;

(C) that the applicant has complied with all applicable state laws and municipal ordinances; and

(D) other information required by the Department.

(vii) In addition to other requirements provided by law, the Department may not issue or renew a general distinguishing number as a motor vehicle dealer to an applicant until the applicant shows proof satisfactory to the Department that the applicant has purchased a properly executed surety bond in the amount of \$25,000 with good and sufficient surety approved by the Department. The bond shall be approved as to form by the attorney general and shall be conditioned on the applicant's payment of all valid bank drafts drawn by the applicant for the purchase of motor vehicles and the applicant's transfer of good title to each motor vehicle the applicant offers for sale. In lieu of the bond otherwise required by this subdivision, the Department may accept and receive the pledge of cash, a cash deposit, a certificate of deposit, or other instrument determined by the Department to be adequate security for the obligations of the bond. Recovery against the bond or other security may be made by a person who obtains a judgment against a dealer assessing damages for an act or omission on which the bond is conditioned if the act or omission occurred during the term for which the general distinguishing number will be valid. The requirements of this subdivision do not apply to a person licensed by the Texas Motor Vehicle Commission.

(viii) The Department shall deny an application for a general distinguishing number, or renewal thereof, if it is satisfied from the application and other information before it that any of the facts in the application are untrue or that the applicant has been guilty of any conduct that would result in cancellation under Subsection (5-A) of this section.

(ix) The Department or any interested person may bring an action in a court of competent jurisdiction to enforce the provisions of this subsection and to prohibit the operation of a dealer in violation of the terms of his application for a general distinguishing number. In an action brought under this subdivision, the plaintiff may seek an injunction and, if a plaintiff other than the Department, may recover his attorney's fees.

SECTION 3. Subsection (2), Section (a), Article 6686, Revised Statutes, is amended to read as follows:

(2) **Manufacturer's License.** Any manufacturer of motor vehicles, motorcycles, house trailers, or trailers [;] or semitrailers in this State may, instead of registering each new vehicle he may wish to test upon the streets or public highways, apply for and secure one or more manufacturer's license plates [~~a general distinguishing number~~] which must be attached to any such vehicle sent unregistered upon the highways for the purpose of testing; provided, however, that no load may be carried upon commercial motor vehicles so tested. A manufacturer within the meaning of this Act means any person, firm, or corporation who manufactures or assembles in this State new motor vehicles, motorcycles, house trailers, or trailers [;] or semitrailers.

SECTION 4. Section (a), Article 6686, Revised Statutes, is amended by adding Subsection (5-A) to read as follows:

- (5-A) Cancellation. The Department shall cancel a general distinguishing number if:
- (A) the dealer has filed a false or forged title or tax document, including sales tax affidavit or affidavit making application for a certified copy of a title;
 - (B) the dealer has failed to take assignment of all certificates of title, manufacturer's certificates, or other basic evidence of ownership for vehicles acquired by the dealer or failed to assign the certificate of title, manufacturer's certificate, or other basic evidence of ownership for vehicles sold;
 - (C) the dealer has used or permitted the use of a metal dealer's plate or a Dealer's Temporary Cardboard Tag on a vehicle which the dealer does not own or control or on a vehicle which is not in stock and offered for sale;
 - (D) the dealer has made a material misrepresentation in any application or other information filed with the Department;
 - (E) the dealer has failed to maintain the qualifications for a general distinguishing number;
 - (F) the dealer has willfully failed to comply with this Act or any rule or regulation of the Department; or
 - (G) the dealer has not assigned at least five (5) vehicles in the prior twelve (12) months. This paragraph does not apply to dealers who have been licensed less than twelve (12) months.

SECTION 5. Subsection (7), Section (a), Article 6686, Revised Statutes, is amended to read as follows:

(7) Fees and Forms. Each applicant for an original [~~dealer's or manufacturer's~~] general distinguishing number [~~and master dealer's license plate~~] shall pay to the Department a fee of Two Hundred and Fifty Dollars (\$250). Each applicant for renewal of a [~~dealer's or manufacturer's~~] general distinguishing number [~~and master dealer's license plate~~] shall pay to the Department an annual fee of One Hundred Dollars (\$100) [~~for the number and master dealer's plate~~]. Each applicant [~~; whether for an original number and master dealer's plate or~~] for [~~renewal of~~] a [~~number and master~~] dealer's plate or plates [~~;~~] shall pay a fee of Ten Dollars (\$10) for each [~~additional or supplemental~~] metal dealer's plate desired. Each applicant for a manufacturer's plate or plates shall pay a fee of Twenty Dollars (\$20) for each plate. All such fees shall be deposited in the State Highway Fund. Applications for a dealer's or manufacturer's license plate or general distinguishing number, and for renewals thereof, shall be made in writing on forms prescribed and furnished by the Department, and [~~such applications shall require any pertinent information, including sufficient information for the Department to determine that the applicant is actively and regularly engaged in the sale of motor vehicles, motorcycles, house trailers, trailers, or semitrailers as a dealer, to insure proper enforcement and administration, and, furthermore,~~] each such application shall contain a statement to the effect that the applicant [~~applying dealer~~] agrees to permit the Department to examine during working hours the ownership papers for each vehicle, registered or unregistered, in the possession of the applicant [~~said dealer~~] or under his control. All facts stated in an application shall be sworn to before an officer authorized to administer oaths and no dealer's general [~~or manufacturer's~~] distinguishing number shall be issued until this Act is complied with. All such applications [~~for dealer's or manufacturer's licenses~~], accompanied by the prescribed fee, should be made to the Department by January 15 of each year and the license plates for those applications meeting the provisions of this Act will be mailed to the applicants during the succeeding months of February and March. Each general distinguishing number and each dealer's and manufacturer's license plate shall expire on March 31 of each year. [~~As a condition for the issuance of a license or licenses described in this subsection, each applicant shall procure and file with the Department a good and sufficient bond in the amount of Twenty-five Thousand Dollars (\$25,000). The bond shall be approved as to form by the attorney general and conditioned on the applicant's payment of all valid bank drafts drawn by the applicant for the purchase of motor vehicles from another dealer and the applicant's transfer of good title to each motor vehicle that the applicant purports to sell. Recovery against the bond may be made by any person who obtains a court judgment assessing damages for an act or omission on which the bond is conditioned. If an applicant has a valid dealer's license issued by the Texas Motor Vehicle Commission, the bond required by this subsection is waived.~~]

SECTION 6. This Act takes effect September 1, 1985.

Passed by the House on May 1, 1985, by a non-record vote; passed by the Senate on May 15, 1985, by the following vote: Yeas 27, Nays 0.

Approved: June 11, 1985

Effective: September 1, 1985