

CHAPTER 803

H.B. No. 1953

AN ACT

relating to the regulation of dealers of certain motor vehicles.

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

SECTION 1. Subdivisions (iii), (iv), (v), and (vi), Subsection (1-A), Section (a), Article 6686, Revised Statutes, are amended to read as follows:

(iii) ~~No [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 *for the location from which the person engages in business.*

(iv) The provisions of Subdivision (iii) of this subsection do not apply to:

(A) 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;

(B) *a person who sells or offers to sell a vehicle acquired for personal or business use if the person does not sell or offer to sell to a retail buyer and the transaction is not held for the purpose of avoiding the provisions of this article;*

(C) *an agency of the United States, this state, or local government;*

(D) *a financial institution or other secured party selling a vehicle in which it holds a security interest in the manner provided by law for the forced sale of that vehicle;*

(E) *a receiver, trustee, administrator, executor, guardian, or other person appointed by or acting pursuant to the order of a court;*

(F) *an insurance company selling a vehicle acquired from the owner as the result of paying an insurance claim;*

(G) *a person selling an antique passenger car or truck that is at least 25 years old or a collector selling a special interest motor vehicle as defined in the Texas Litter Abatement Act (Article 4477-9a, Vernon's Texas Civil Statutes) if the special interest vehicle is at least 12 years old;*

(H) *a licensed auctioneer who, as a bid caller, sells or offers to sell property to the highest bidder at a bona fide auction if neither legal nor equitable title passes to the auctioneer and if the auction is not held for the purpose of avoiding another provision of this article. In addition to the other requirements of this paragraph, if an auction is conducted of vehicles owned, legally or equitably, by a person who holds a general distinguishing number, the auction may be conducted only at a location for which a general distinguishing number has been issued to that person.*

(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. ~~A [Except as otherwise provided by law or regulation of the Department, a] dealer shall obtain a separate and distinct general distinguishing number for each location at which he engages in the business of buying, selling, or exchanging motor vehicles, except that a dealer holding a general distinguishing number for a particular type of vehicle may buy, sell, or exchange vehicles of that type [operate thereunder] from more than one location within the limits of a city if each location within the limits of that city meets all requirements of an established and permanent place of business set forth in this article and rules promulgated by the Department, and if the dealer is not otherwise prohibited by law from doing business at more than one location[, 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 *regularly and actively engaged in business as a dealer of the type of vehicle for which he seeks a general distinguishing number for at least one year at the specified location and that the applicant or his bona fide employee will be on the location for the purpose of buying, selling, leasing, or exchanging vehicles and will be available to the public or the Department at that location during reasonable and lawful business hours* [~~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.

SECTION 2. Subsection (5-A), Section (a), Article 6686, Revised Statutes, is amended to read as follows:

(5-A) Cancellation. The Department *may* [~~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; *or*

(H) *the dealer has used or allowed the use of his general distinguishing number, or used or allowed the use of a location for which a general distinguishing number is held, for the purpose of avoiding the provisions of this article.*

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

(f) Any person found guilty of violating any of the provisions of this *article* [Act] shall, upon conviction, be fined not less than Fifty (\$50.00) Dollars and not more than One Hundred Fifty (\$150.00) Dollars, and all costs of court. *In addition to any penalty otherwise provided by this article, a person who violates a provision of this article, or a rule, regulation, or order of the Department promulgated or issued pursuant to this article is subject to a civil penalty levied by the Department of not less than Fifty (\$50.00) Dollars or more than One Thousand (\$1,000.00) Dollars. For purposes of civil penalties established by this section, each act in violation of this article is a separate violation and each day of a continuing violation is a separate violation.*

SECTION 4. Article 6686, Revised Statutes, is amended by adding a new Section (g) to read as follows:

(g) This article does not prevent the display and sale of a nonmotorized vehicle or trailer at a regularly scheduled vehicle or boat show with multiple vendors under rules or regulations established by the Department.

SECTION 5. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed by the House on May 7, 1987, by the following vote: Yeas 142, Nays 0, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 1953 on May 20, 1987, by the following vote: Yeas 139, Nays 1, 1 present, not voting. Passed by the Senate, with amendments, on May 18, 1987, by the following vote: Yeas 29, Nays 0.

Approved June 18, 1987.

Effective June 18, 1987.