

State of Arizona  
House of Representatives  
Fifty-fourth Legislature  
First Regular Session  
2019

# HOUSE BILL 2239

## AN ACT

AMENDING SECTION 28-2051, ARIZONA REVISED STATUTES; AMENDING SECTION 28-4301, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2014, CHAPTER 81, SECTION 1; AMENDING SECTION 28-4301, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2018, CHAPTER 298, SECTION 6; AMENDING SECTIONS 28-4409 AND 44-1267, ARIZONA REVISED STATUTES; RELATING TO MOTOR VEHICLES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 28-2051, Arizona Revised Statutes, is amended to  
3 read:

4 28-2051. Application for certificate of title: vision  
5 screening test

6 A. A person shall apply to the department on a form prescribed or  
7 authorized by the department for a certificate of title to a motor  
8 vehicle, trailer or semitrailer. The person shall make the application  
9 within fifteen days after the purchase or transfer of the vehicle, trailer  
10 or semitrailer except that a licensed motor vehicle dealer shall make the  
11 application within ~~thirty~~ SIXTY days after the purchase or transfer. All  
12 transferees shall sign the application, except that one transferee may  
13 sign the application if both of the following apply:

14 1. The application is for the purposes of converting an  
15 out-of-state certificate of title to a certificate of title issued  
16 pursuant to this article.

17 2. The ownership or legal status of the motor vehicle, trailer or  
18 semitrailer does not change.

19 B. The application shall contain:

20 1. The transferee's full name and either the driver license number  
21 of the transferee or a number assigned by the department.

22 2. The transferee's complete residence address.

23 3. A brief description of the vehicle to be issued a certificate of  
24 title.

25 4. The name of the manufacturer of the vehicle.

26 5. The serial number of the vehicle.

27 6. The last license plate number if applicable and if known and the  
28 state in which the license plate number was issued.

29 7. If the application is for a certificate of title to a new  
30 vehicle, the date of sale by the manufacturer or dealer to the person  
31 first operating the vehicle.

32 8. If the application is in the name of a lessor:

33 (a) The lessor shown on the application as the owner or transferee.

34 (b) At the option of the lessor, the lessee shown on the  
35 application as the registrant.

36 (c) The address of either the lessor or lessee.

37 (d) The signature of the lessor.

38 9. If the application is for a certificate of title to a specially  
39 constructed, reconstructed or foreign vehicle, a statement of that fact.  
40 For the purposes of this paragraph, "specially constructed vehicle" means  
41 a vehicle not originally constructed under a distinctive name, make, model  
42 or type by a generally recognized manufacturer of vehicles.

43 10. If an applicant rents or intends to rent the vehicle without a  
44 driver, a statement of that fact.

45 11. Other information required by the department.

1 C. Unless subsection B, paragraph 8 of this section applies, on  
2 request of an applicant, the department shall allow the applicant to  
3 provide on the certificate of title of a motor vehicle, trailer or  
4 semitrailer a post office box address that is regularly used by the  
5 applicant.

6 D. A person shall submit the following information with an  
7 application for a certificate of title:

8 1. To a vehicle previously registered:

9 (a) The odometer mileage disclosure statement prescribed by section  
10 28-2058.

11 (b) If the applicant is applying for a certificate of title  
12 pursuant to section 28-2060, the applicant's statement of the odometer  
13 reading as of the date of application.

14 2. To a new vehicle:

15 (a) A manufacturer's certificate of origin showing the date of sale  
16 to the dealer or person first receiving the vehicle from the manufacturer.  
17 Before the department issues a certificate of title to a new vehicle, a  
18 manufacturer's certificate of origin shall be surrendered to the  
19 department.

20 (b) The name of the dealer or person.

21 (c) A description sufficient to identify the vehicle.

22 (d) A statement certifying that the vehicle was new when sold.

23 (e) If sold through a dealer, a statement by the dealer certifying  
24 that the vehicle was new when sold to the applicant.

25 E. The department may request that an applicant who appears in  
26 person for a certificate of title of a motor vehicle, trailer or  
27 semitrailer satisfactorily complete the vision screening test prescribed  
28 by the department.

29 Sec. 2. Section 28-4301, Arizona Revised Statutes, as amended by  
30 Laws 2014, chapter 81, section 1, is amended to read:

31 28-4301. Definitions

32 In this chapter, unless the context otherwise requires:

33 1. "Area of responsibility" means the area surrounding an  
34 individual dealer that the factory designates as that dealer's individual  
35 primary geographic territory for the purpose of marketing, promoting,  
36 selling and leasing new motor vehicles. In the absence of the factory  
37 designated area, the area of responsibility is that geographical area  
38 surrounding a dealer that lies closer to that dealer than to other dealers  
39 of the same line-make.

40 2. "Automotive recycler" means a person who is engaged in the  
41 business of buying or acquiring a motor vehicle solely for the purpose of  
42 dismantling, selling or otherwise disposing of the parts or accessories  
43 and who dismantles six or more vehicles in a calendar year.

1           3. "Branch license" means a license that is issued by the director  
2 to a licensed motor vehicle dealer and that permits the licensee to sell  
3 motor vehicles from an established place of business within the same  
4 county but other than the original or principal place of business for  
5 which the license was issued.

6           4. "Broker" means a person who for any fee, commission or other  
7 valuable consideration offers to provide, provides or represents that the  
8 person will provide a service of arranging or assisting in effecting the  
9 purchase of a motor vehicle and who is not:

10           (a) A new motor vehicle dealer or an employee or agent of a new  
11 motor vehicle dealer.

12           (b) A used motor vehicle dealer or an employee or agent of a used  
13 motor vehicle dealer.

14           (c) A manufacturer or employee or agent of a manufacturer.

15           (d) An auctioneer or engaged in the auto auction business.

16           (e) A wholesale motor vehicle dealer.

17           5. "Community" means the relevant market area. For the purposes of  
18 this paragraph, "relevant market area" means the incorporated city or town  
19 in which the franchise is located.

20           6. "Distributor" means a person who either:

21           (a) Sells or distributes new motor vehicles to new motor vehicle  
22 dealers in this state.

23           (b) Maintains distributor representatives in this state.

24           7. "Distributor branch" means a branch office maintained or availed  
25 of by a distributor for either:

26           (a) The sale of new motor vehicles to new motor vehicle dealers in  
27 this state.

28           (b) Directing or supervising its representatives in this state.

29           8. "Established place of business":

30           (a) Means a permanent enclosed building or structure that is owned  
31 either in fee or leased with sufficient space to display two or more motor  
32 vehicles of a kind and type that the dealer is licensed to sell and that  
33 is devoted principally to the use of a motor vehicle dealer in the conduct  
34 of the business of the dealer.

35           (b) In the case of a used motor vehicle dealer, trailer dealer or  
36 semitrailer dealer:

37           (i) Need not be a permanent building or structure or part of a  
38 permanent building or structure.

39           (ii) May be a vacant lot or part of a vacant lot.

40           (iii) Does not mean or include a residence, tent, temporary stand  
41 or temporary quarters or permanent quarters occupied pursuant to a  
42 temporary arrangement.

43           (c) In the case of an automotive recycler, means a permanent site  
44 or location at which the business of an automotive recycler is or will be  
45 conducted.

1           9. "Exhibitor" means a manufacturer of new motor homes that  
2 exhibits new motor homes at a special event.

3           10. "Factory branch" means a branch office maintained or availed of  
4 by a manufacturer for either:

5           (a) The sale of new motor vehicles to distributors or the sale of  
6 new motor vehicles to new motor vehicle dealers in this state.

7           (b) Directing or supervising its representatives in this state.

8           11. "Financial institution" means a bank, trust company, savings  
9 and loan association, credit union, consumer lender, international banking  
10 facility or holding company that is licensed, regulated or insured by the  
11 department of financial institutions, the federal deposit insurance  
12 corporation, the office of thrift supervision, the comptroller of the  
13 currency, the national credit union share insurance fund or the national  
14 credit union administration.

15           12. "Franchise" means a contract between two or more persons if all  
16 of the following conditions are included:

17           (a) A commercial relationship of definite duration or continuing  
18 indefinite duration is involved.

19           (b) The franchisee is granted the right to offer, sell and service  
20 in this state new motor vehicles manufactured or distributed by the  
21 franchisor.

22           (c) The franchisee, as a separate business, constitutes a component  
23 of the franchisor's distribution system.

24           (d) The operation of the franchisee's business is substantially  
25 associated with the franchisor's trademark, service mark, trade name,  
26 advertising or other commercial symbol designating the franchisor.

27           (e) The operation of the franchisee's business is substantially  
28 reliant on the franchisor for the continued supply of new motor vehicles,  
29 parts and accessories.

30           13. "Franchisee" means a person who both:

31           (a) Receives new motor vehicles from the franchisor under a  
32 franchise.

33           (b) Offers and sells to and services new motor vehicles for the  
34 general public.

35           14. "Franchisor" means a person who both:

36           (a) Manufactures or distributes new motor vehicles.

37           (b) May enter into a franchise.

38           15. "Importer" means a person who transports or arranges for the  
39 transportation of a foreign manufactured new motor vehicle into the United  
40 States for sale in this state.

41           16. "Lead" means any retail consumer who satisfies all of the  
42 following:

43           (a) Responds to a factory-directed program that obtains consumer  
44 contact information and that provides such information to one or more  
45 dealers.

1 (b) Expresses an interest to the factory in purchasing, leasing or  
2 acquiring any vehicle or product, service or financing available from the  
3 dealers of that factory.

4 (c) Does not qualify for any reasonable factory sponsored employee,  
5 retiree or vendor new vehicle purchase program or any other reasonable  
6 similar factory new vehicle purchase program.

7 17. "Line-make" means those motor vehicles that are offered for  
8 sale, lease or distribution under a common name, trademark, service mark  
9 or brand name of the manufacturer of those same motor vehicles.

10 18. "Major component part" includes a motor vehicle or vehicle part  
11 that the manufacturer has assigned any factory, motor, serial or other  
12 identification number or mark.

13 19. "Manufacturer" means any person who either:

14 (a) Manufactures or assembles new motor vehicles.

15 (b) Manufactures or installs on previously assembled truck chassis  
16 special bodies or equipment that when installed forms an integral part of  
17 the new motor vehicle and that constitutes a major manufacturing  
18 alteration, excluding the installation of a camper on a pickup truck.

19 20. "Motor home" means a motor vehicle that is primarily designed  
20 as temporary living quarters and that:

21 (a) Is built onto as an integral part of, or is permanently  
22 attached to, a motor vehicle chassis.

23 (b) Contains at least four of the following independent life  
24 support systems if each is permanently installed and designed to be  
25 removed only for purposes of repair or replacement:

26 (i) A cooking facility with an onboard fuel source.

27 (ii) A gas or electric refrigerator.

28 (iii) A toilet with exterior evacuation.

29 (iv) A heating or air conditioning system with an onboard power or  
30 fuel source separate from the vehicle engine.

31 (v) A potable water supply system that includes at least a sink, a  
32 faucet and a water tank with an exterior service supply connection.

33 (vi) A 110-125 volt electric power supply.

34 21. "Motor vehicle" means an automobile, motor bus, motorcycle,  
35 truck or truck tractor or any other self-propelled vehicle, trailer or  
36 semitrailer.

37 22. "Motor vehicle dealer" means a new motor vehicle dealer, a used  
38 motor vehicle dealer, a public consignment auction dealer, a ~~broker~~  
39 ~~WHOLESALE MOTOR VEHICLE DEALER~~ or a wholesale motor vehicle auction  
40 dealer, excluding a person who comes into possession of a motor vehicle as  
41 an incident to the person's regular business and who sells, auctions or  
42 exchanges the motor vehicle.

1           23. "New house trailer dealer" means a person who buys, sells,  
2 exchanges or offers or attempts to negotiate a sale or exchange of an  
3 interest in, or who is engaged in the business of selling, new house  
4 trailers or used house trailers taken in trade on new house trailers. For  
5 the purposes of this paragraph, "house trailer" means a vehicle, other  
6 than a motor vehicle, that is built on a chassis designed for being drawn  
7 on the highways by a motor vehicle and that is designed for human  
8 habitation.

9           24. "New motor vehicle" means a motor vehicle, other than a used  
10 motor vehicle, that is held either for:

11           (a) Sale by the franchisee who first acquired the vehicle from the  
12 manufacturer or distributor of the vehicle.

13           (b) Sale by another franchisee of the same line-make.

14           25. "New motor vehicle dealer" means a person who buys, sells,  
15 exchanges or offers or attempts to negotiate a sale or exchange of an  
16 interest in, or who is engaged in the business of selling, new motor  
17 vehicles or used motor vehicles taken in trade on new motor vehicles or  
18 used vehicles purchased for resale.

19           26. "Off-premises display and sales" means a promotion or sale of  
20 motor vehicles for a period of time as specified by the director that  
21 both:

22           (a) Is sponsored by a licensed motor vehicle dealer, the licensed  
23 motor vehicle dealer's agents or the manufacturer.

24           (b) Takes place at a location within the same county but not at the  
25 licensee's established place of business.

26           27. "Off-premises exhibition" means the exhibition of a motor  
27 vehicle for a period of time as specified by the director at a location  
28 within the same county but not at the established place of business of a  
29 licensed motor vehicle dealer and at which a solicitation or sale does not  
30 occur.

31           28. "Provisional automotive recycler's license" means a license  
32 that both:

33           (a) Is issued by the department only in conjunction with an  
34 application for an automotive recycler's license.

35           (b) Permits the applicant or applicants to conduct the business of  
36 an automotive recycler regulated by this chapter pending completion of the  
37 criminal records check pursuant to section 28-4361.

38           29. "Provisional dealer's license" means a license that both:

39           (a) Is issued by the department only in conjunction with an  
40 application for a dealer's license.

41           (b) Permits the applicant or applicants to conduct the business of  
42 a motor vehicle dealer regulated by this chapter pending completion of the  
43 criminal records check pursuant to section 28-4361.

44           30. "Public consignment auction dealer" means a person who at the  
45 public consignment auction dealer's established place of business or at an

1 authorized off-premises location pursuant to the requirements of section  
2 28-4401 is in the business of both of the following:

3 (a) Conducting live auctions with a licensed auctioneer verbally  
4 calling for and accepting bids.

5 (b) Providing live auction services to the public on a consignment  
6 contract basis.

7 31. "Retail consumer" means any person purchasing, leasing or  
8 acquiring or possibly purchasing, leasing or acquiring a vehicle or  
9 product, service or financing not for resale.

10 32. "Service" means any service that is sold, leased or provided to  
11 retail consumers and that directly relates to the ownership or leasing of  
12 a new or used motor vehicle, including extended service contracts or motor  
13 vehicle warranty and nonwarranty repairs or maintenance, including both  
14 parts and labor.

15 33. "Special event" means an exhibition of new motor homes by a  
16 motor vehicle dealer licensed to sell new motor homes or an exhibitor for  
17 a period of time specified by the director at a location in this state  
18 other than the licensee's or exhibitor's established place of business.

19 34. "Used motor vehicle" means a motor vehicle that has been sold,  
20 bargained, exchanged or given away or the title to the motor vehicle has  
21 been transferred from the person who first acquired the vehicle from the  
22 manufacturer, or importer, dealer or agent of the manufacturer or  
23 importer, and that has been placed in bona fide consumer use. For the  
24 purposes of this paragraph, "bona fide consumer use" means actual  
25 operation by an owner who acquired a new motor vehicle both:

26 (a) For use in the owner's business or for pleasure or otherwise.

27 (b) For which a certificate of title has been issued or that has  
28 been registered as provided by law.

29 35. "Used motor vehicle dealer" means a person, other than a new  
30 motor vehicle dealer, who buys, sells, auctions, exchanges or offers or  
31 attempts to negotiate a sale or exchange of an interest in, or who is  
32 engaged in the business of selling, seven or more used motor vehicles in a  
33 continuous twelve month period. Used motor vehicle dealer does not  
34 include a wholesale motor vehicle auction dealer or a public consignment  
35 auction dealer.

36 36. "Wholesale motor vehicle auction dealer" means a person who  
37 both:

38 (a) Is in the business of providing auction services solely in  
39 wholesale transactions to motor vehicle dealers licensed by this state or  
40 any other jurisdiction.

41 (b) Does not buy, sell or own the motor vehicles the auction dealer  
42 auctions in the ordinary course of business.

43 37. "Wholesale motor vehicle dealer" means a person who sells used  
44 motor vehicles only to licensed motor vehicle dealers.

1           Sec. 3. Section 28-4301, Arizona Revised Statutes, as amended by  
2 Laws 2018, chapter 298, section 6, is amended to read:

3           28-4301. Definitions

4           In this chapter, unless the context otherwise requires:

5           1. "Area of responsibility" means the area surrounding an  
6 individual dealer that the factory designates as that dealer's individual  
7 primary geographic territory for the purpose of marketing, promoting,  
8 selling and leasing new motor vehicles. In the absence of the factory  
9 designated area, the area of responsibility is that geographical area  
10 surrounding a dealer that lies closer to that dealer than to other dealers  
11 of the same line-make.

12           2. "Branch license" means a license that is issued by the director  
13 to a licensed motor vehicle dealer and that permits the licensee to sell  
14 motor vehicles from an established place of business within the same  
15 county but other than the original or principal place of business for  
16 which the license was issued.

17           3. "Broker" means a person who for any fee, commission or other  
18 valuable consideration offers to provide, provides or represents that the  
19 person will provide a service of arranging or assisting in effecting the  
20 purchase of a motor vehicle and who is not:

21           (a) A new motor vehicle dealer or an employee or agent of a new  
22 motor vehicle dealer.

23           (b) A used motor vehicle dealer or an employee or agent of a used  
24 motor vehicle dealer.

25           (c) A manufacturer or employee or agent of a manufacturer.

26           (d) An auctioneer or engaged in the auto auction business.

27           (e) A wholesale motor vehicle dealer.

28           4. "Community" means the relevant market area. For the purposes of  
29 this paragraph, "relevant market area" means the incorporated city or town  
30 in which the franchise is located.

31           5. "Distributor" means a person who either:

32           (a) Sells or distributes new motor vehicles to new motor vehicle  
33 dealers in this state.

34           (b) Maintains distributor representatives in this state.

35           6. "Distributor branch" means a branch office maintained or availed  
36 of by a distributor for either:

37           (a) The sale of new motor vehicles to new motor vehicle dealers in  
38 this state.

39           (b) Directing or supervising its representatives in this state.

40           7. "Established place of business":

41           (a) Means a permanent enclosed building or structure that is owned  
42 either in fee or leased with sufficient space to display two or more motor  
43 vehicles of a kind and type that the dealer is licensed to sell and that  
44 is devoted principally to the use of a motor vehicle dealer in the conduct  
45 of the business of the dealer.

1 (b) In the case of a used motor vehicle dealer, trailer dealer or  
2 semitrailer dealer:

3 (i) Need not be a permanent building or structure or part of a  
4 permanent building or structure.

5 (ii) May be a vacant lot or part of a vacant lot.

6 (iii) Does not mean or include a residence, tent, temporary stand  
7 or temporary quarters or permanent quarters occupied pursuant to a  
8 temporary arrangement.

9 (c) In the case of an automotive recycler, means a permanent site  
10 or location at which the business of an automotive recycler is or will be  
11 conducted.

12 8. "Exhibitor" means a manufacturer of new motor homes that  
13 exhibits new motor homes at a special event.

14 9. "Factory branch" means a branch office maintained or availed of  
15 by a manufacturer for either:

16 (a) The sale of new motor vehicles to distributors or the sale of  
17 new motor vehicles to new motor vehicle dealers in this state.

18 (b) Directing or supervising its representatives in this state.

19 10. "Financial institution" means a bank, trust company, savings  
20 and loan association, credit union, consumer lender, international banking  
21 facility or holding company that is licensed, regulated or insured by the  
22 department of financial institutions, the federal deposit insurance  
23 corporation, the office of thrift supervision, the comptroller of the  
24 currency, the national credit union share insurance fund or the national  
25 credit union administration.

26 11. "Franchise" means a contract between two or more persons if all  
27 of the following conditions are included:

28 (a) A commercial relationship of definite duration or continuing  
29 indefinite duration is involved.

30 (b) The franchisee is granted the right to offer, sell and service  
31 in this state new motor vehicles manufactured or distributed by the  
32 franchisor.

33 (c) The franchisee, as a separate business, constitutes a component  
34 of the franchisor's distribution system.

35 (d) The operation of the franchisee's business is substantially  
36 associated with the franchisor's trademark, service mark, trade name,  
37 advertising or other commercial symbol designating the franchisor.

38 (e) The operation of the franchisee's business is substantially  
39 reliant on the franchisor for the continued supply of new motor vehicles,  
40 parts and accessories.

41 12. "Franchisee" means a person who both:

42 (a) Receives new motor vehicles from the franchisor under a  
43 franchise.

44 (b) Offers and sells to and services new motor vehicles for the  
45 general public.

- 1           13. "Franchisor" means a person who both:  
2           (a) Manufactures or distributes new motor vehicles.  
3           (b) May enter into a franchise.  
4           14. "Importer" means a person who transports or arranges for the  
5 transportation of a foreign manufactured new motor vehicle into the United  
6 States for sale in this state.  
7           15. "Lead" means any retail consumer who satisfies all of the  
8 following:  
9           (a) Responds to a factory-directed program that obtains consumer  
10 contact information and that provides such information to one or more  
11 dealers.  
12           (b) Expresses an interest to the factory in purchasing, leasing or  
13 acquiring any vehicle or product, service or financing available from the  
14 dealers of that factory.  
15           (c) Does not qualify for any reasonable factory sponsored employee,  
16 retiree or vendor new vehicle purchase program or any other reasonable  
17 similar factory new vehicle purchase program.  
18           16. "Line-make" means those motor vehicles that are offered for  
19 sale, lease or distribution under a common name, trademark, service mark  
20 or brand name of the manufacturer of those same motor vehicles.  
21           17. "Major component part" includes a motor vehicle or vehicle part  
22 that the manufacturer has assigned any factory, motor, serial or other  
23 identification number or mark.  
24           18. "Manufacturer" means any person who either:  
25           (a) Manufactures or assembles new motor vehicles.  
26           (b) Manufactures or installs on previously assembled truck chassis  
27 special bodies or equipment that when installed forms an integral part of  
28 the new motor vehicle and that constitutes a major manufacturing  
29 alteration, excluding the installation of a camper on a pickup truck.  
30           19. "Motor home" means a motor vehicle that is primarily designed  
31 as temporary living quarters and that:  
32           (a) Is built onto as an integral part of, or is permanently  
33 attached to, a motor vehicle chassis.  
34           (b) Contains at least four of the following independent life  
35 support systems if each is permanently installed and designed to be  
36 removed only for purposes of repair or replacement:  
37           (i) A cooking facility with an onboard fuel source.  
38           (ii) A gas or electric refrigerator.  
39           (iii) A toilet with exterior evacuation.  
40           (iv) A heating or air conditioning system with an onboard power or  
41 fuel source separate from the vehicle engine.  
42           (v) A potable water supply system that includes at least a sink, a  
43 faucet and a water tank with an exterior service supply connection.  
44           (vi) A 110-125 volt electric power supply.

1           20. "Motor vehicle" means an automobile, motor bus, motorcycle,  
2 truck or truck tractor or any other self-propelled vehicle, trailer or  
3 semitrailer.

4           21. "Motor vehicle dealer" means a new motor vehicle dealer, a used  
5 motor vehicle dealer, a public consignment auction dealer, a ~~broker~~  
6 ~~WHOLESALE MOTOR VEHICLE DEALER~~ or a wholesale motor vehicle auction  
7 dealer, excluding a person who comes into possession of a motor vehicle as  
8 an incident to the person's regular business and who sells, auctions or  
9 exchanges the motor vehicle.

10          22. "New house trailer dealer" means a person who buys, sells,  
11 exchanges or offers or attempts to negotiate a sale or exchange of an  
12 interest in, or who is engaged in the business of selling, new house  
13 trailers or used house trailers taken in trade on new house trailers. For  
14 the purposes of this paragraph, "house trailer" means a vehicle, other  
15 than a motor vehicle, that is built on a chassis designed for being drawn  
16 on the highways by a motor vehicle and that is designed for human  
17 habitation.

18          23. "New motor vehicle" means a motor vehicle, other than a used  
19 motor vehicle, that is held either for:

20           (a) Sale by the franchisee who first acquired the vehicle from the  
21 manufacturer or distributor of the vehicle.

22           (b) Sale by another franchisee of the same line-make.

23          24. "New motor vehicle dealer" means a person who buys, sells,  
24 exchanges or offers or attempts to negotiate a sale or exchange of an  
25 interest in, or who is engaged in the business of selling, new motor  
26 vehicles or used motor vehicles taken in trade on new motor vehicles or  
27 used vehicles purchased for resale.

28          25. "Off-premises display and sales" means a promotion or sale of  
29 motor vehicles for a period of time as specified by the director that  
30 both:

31           (a) Is sponsored by a licensed motor vehicle dealer, the licensed  
32 motor vehicle dealer's agents or the manufacturer.

33           (b) Takes place at a location within the same county but not at the  
34 licensee's established place of business.

35          26. "Off-premises exhibition" means the exhibition of a motor  
36 vehicle for a period of time as specified by the director at a location  
37 within the same county but not at the established place of business of a  
38 licensed motor vehicle dealer and at which a solicitation or sale does not  
39 occur.

40          27. "Provisional automotive recycler's license" means a license  
41 that both:

42           (a) Is issued by the department only in conjunction with an  
43 application for an automotive recycler's license.

1 (b) Permits the applicant or applicants to conduct the business of  
2 an automotive recycler regulated by this chapter pending completion of the  
3 criminal records check pursuant to section 28-4361.

4 28. "Provisional dealer's license" means a license that both:

5 (a) Is issued by the department only in conjunction with an  
6 application for a dealer's license.

7 (b) Permits the applicant or applicants to conduct the business of  
8 a motor vehicle dealer regulated by this chapter pending completion of the  
9 criminal records check pursuant to section 28-4361.

10 29. "Public consignment auction dealer" means a person who at the  
11 public consignment auction dealer's established place of business or at an  
12 authorized off-premises location pursuant to the requirements of section  
13 28-4401 is in the business of both of the following:

14 (a) Conducting live auctions with a licensed auctioneer verbally  
15 calling for and accepting bids.

16 (b) Providing live auction services to the public on a consignment  
17 contract basis.

18 30. "Retail consumer" means any person purchasing, leasing or  
19 acquiring or possibly purchasing, leasing or acquiring a vehicle or  
20 product, service or financing not for resale.

21 31. "Service" means any service that is sold, leased or provided to  
22 retail consumers and that directly relates to the ownership or leasing of  
23 a new or used motor vehicle, including extended service contracts or motor  
24 vehicle warranty and nonwarranty repairs or maintenance, including both  
25 parts and labor.

26 32. "Special event" means an exhibition of new motor homes by a  
27 motor vehicle dealer licensed to sell new motor homes or an exhibitor for  
28 a period of time specified by the director at a location in this state  
29 other than the licensee's or exhibitor's established place of business.

30 33. "Used motor vehicle" means a motor vehicle that has been sold,  
31 bargained, exchanged or given away or the title to the motor vehicle has  
32 been transferred from the person who first acquired the vehicle from the  
33 manufacturer, or importer, dealer or agent of the manufacturer or  
34 importer, and that has been placed in bona fide consumer use. For the  
35 purposes of this paragraph, "bona fide consumer use" means actual  
36 operation by an owner who acquired a new motor vehicle both:

37 (a) For use in the owner's business or for pleasure or otherwise.

38 (b) For which a certificate of title has been issued or that has  
39 been registered as provided by law.

40 34. "Used motor vehicle dealer" means a person, other than a new  
41 motor vehicle dealer, who buys, sells, auctions, exchanges or offers or  
42 attempts to negotiate a sale or exchange of an interest in, or who is  
43 engaged in the business of selling, seven or more used motor vehicles in a  
44 continuous twelve month period. Used motor vehicle dealer does not

1 include a wholesale motor vehicle auction dealer or a public consignment  
2 auction dealer.

3 35. "Wholesale motor vehicle auction dealer" means a person who  
4 both:

5 (a) Is in the business of providing auction services solely in  
6 wholesale transactions to motor vehicle dealers licensed by this state or  
7 any other jurisdiction.

8 (b) Does not buy, sell or own the motor vehicles the auction dealer  
9 auctions in the ordinary course of business.

10 36. "Wholesale motor vehicle dealer" means a person who sells used  
11 motor vehicles only to licensed motor vehicle dealers.

12 Sec. 4. Section 28-4409, Arizona Revised Statutes, is amended to  
13 read:

14 28-4409. Evidence of ownership requirement; exception

15 A. Except as provided in section 28-4410, ~~---~~

16 ~~1.~~ each dealer in motor vehicles, trailers and semitrailers,  
17 including manufacturers who sell to other than dealers, having possession  
18 of or offering for sale a motor vehicle, trailer or semitrailer shall have  
19 at the same time either:

20 ~~(a)~~ 1. Possession of a duly and regularly assigned certificate of  
21 title to the vehicle.

22 ~~(b)~~ 2. Reasonable indicia of ownership or right of possession as  
23 approved by the director.

24 ~~2. A dealer or manufacturer shall not offer for sale or sell a~~  
25 ~~motor vehicle, trailer or semitrailer until the dealer or manufacturer has~~  
26 ~~obtained a certificate of title to the motor vehicle, trailer or~~  
27 ~~semitrailer, except that a certificate of title is not required for a new~~  
28 ~~motor vehicle sold by manufacturers to dealers.~~

29 B. A wholesale motor vehicle auction dealer is exempt from the  
30 requirement of having to possess a duly and regularly assigned certificate  
31 of title and from other requirements relating to the reassignment of  
32 certificate of title documents and disclosures to buyers. A wholesale  
33 motor vehicle auction dealer may buy or sell a motor vehicle at wholesale  
34 in the wholesale motor vehicle auction dealer's own name if the wholesale  
35 motor vehicle auction dealer complies with ~~the provisions of~~ this title  
36 relating to certificates of title, reassignments of certificate of title  
37 documents and disclosures to buyers.

38 C. A wholesale motor vehicle dealer must apply for a certificate of  
39 title in the name of the wholesale motor vehicle dealer any vehicle that  
40 the wholesale motor vehicle dealer acquires before the wholesale motor  
41 vehicle dealer transfers the vehicle to another licensed motor vehicle  
42 dealer.

1           Sec. 5. Section 44-1267, Arizona Revised Statutes, is amended to  
2 read:

3           44-1267. Used motor vehicles; implied warranty of  
4                   merchantability disclaimer; waiver; burden of  
5                   proof; remedies

6           ~~A. Before the seller attempts to sell a used motor vehicle the~~  
7 ~~seller shall possess the title to the used motor vehicle and the title~~  
8 ~~shall be in the seller's name.~~

9           ~~B.~~ A. Except as provided in subsection ~~I~~ H of this section and in  
10 addition to the requirements of section 28-4412, a used motor vehicle  
11 dealer shall not exclude, modify or disclaim the implied warranty of  
12 merchantability prescribed in section 47-2314 or limit the remedies for a  
13 breach of that warranty, except as otherwise provided in this section,  
14 before midnight of the fifteenth calendar day after delivery of a used  
15 motor vehicle or until a used motor vehicle is driven five hundred miles  
16 after delivery, whichever is earlier. In calculating time under this  
17 subsection, a day on which the warranty is breached is excluded and all  
18 subsequent days in which the motor vehicle fails to conform with the  
19 implied warranty of merchantability are also excluded. In calculating  
20 distance under this subsection, the miles driven to obtain or in  
21 connection with the repair, servicing or testing of the motor vehicle that  
22 fails to conform with the implied warranty of merchantability are  
23 excluded. An attempt to exclude, modify or disclaim the implied warranty  
24 of merchantability or to limit the remedies for a breach of that warranty,  
25 except as otherwise provided in this section, in violation of this  
26 subsection renders a purchase agreement voidable at the option of the  
27 purchaser.

28           ~~C.~~ B. For the purposes of this section, the implied warranty of  
29 merchantability is met if the motor vehicle functions in a safe condition  
30 as provided in title 28, chapter 3, article 16 and is substantially free  
31 of any defect that significantly limits the use of the motor vehicle for  
32 the ordinary purpose of transportation on any public highway. The implied  
33 warranty of merchantability expires at midnight of the fifteenth calendar  
34 day after delivery of a used motor vehicle or when a used motor vehicle  
35 has been driven five hundred miles after delivery, whichever is  
36 earlier. In calculating time under this subsection, a day on which the  
37 warranty is breached is excluded and all subsequent days in which the  
38 motor vehicle fails to conform with the implied warranty of  
39 merchantability are also excluded. In calculating distance under this  
40 subsection, the miles driven to obtain or in connection with the repair,  
41 servicing or testing of the motor vehicle that fails to conform with the  
42 implied warranty of merchantability are excluded.

1       ~~D.~~ C. The implied warranty of merchantability described in this  
2 section does not extend to damage that occurs after the sale of the motor  
3 vehicle and that is the result of any abuse, misuse, neglect, failure to  
4 perform regular maintenance or to maintain adequate oil, coolant or other  
5 required fluid or lubricant or off road use, racing or towing.

6       ~~E.~~ D. If the implied warranty of merchantability described in this  
7 section is breached, the purchaser shall give reasonable notice to the  
8 seller. Before the purchaser exercises any other remedies under title 47,  
9 chapter 2, the seller shall have a reasonable opportunity to repair the  
10 vehicle. The purchaser shall pay one-half of the cost of the first two  
11 repairs necessary to bring the vehicle in compliance with the  
12 warranty. The purchaser's payments are limited to a maximum payment of  
13 ~~twenty-five dollars~~ \$25 for each repair.

14       ~~F.~~ E. The maximum liability of the seller under this section is  
15 limited to the purchase price paid for the used motor vehicle.

16       ~~G.~~ F. An agreement for the sale of a used motor vehicle by a used  
17 motor vehicle dealer is voidable at the option of the purchaser unless it  
18 contains on its face the following conspicuous statement printed in  
19 bold-faced ten point or larger type set off from the body of the  
20 agreement:

21               The seller hereby warrants that this vehicle will be fit  
22 for the ordinary purposes for which the vehicle is used for 15  
23 days or 500 miles after delivery, whichever is earlier, except  
24 with regard to particular defects disclosed on the first page  
25 of this agreement. You (the purchaser) will have to pay up to  
26 \$25.00 for each of the first two repairs if the warranty is  
27 violated.

28       ~~H.~~ G. The inclusion of the statement prescribed in subsection ~~G.~~ F  
29 of this section in the agreement does not create an express warranty.

30       ~~I.~~ H. A purchaser of a used motor vehicle may waive the implied  
31 warranty of merchantability described in this section only for a  
32 particular defect in the vehicle and only if all of the following  
33 conditions are satisfied:

34               1. The used motor vehicle dealer fully and accurately discloses to  
35 the purchaser that because of circumstances unusual to the used motor  
36 vehicle dealer's business, the used motor vehicle has a particular defect.

37               2. The purchaser agrees to buy the used motor vehicle after  
38 disclosure of the defect.

39               3. Before the sale, the purchaser indicates agreement to the waiver  
40 by signing and dating the following conspicuous statement that is printed  
41 on the first page of the sales agreement in bold-faced ten point or larger  
42 type and that is written in the language in which the presentation was  
43 made:

1           Attention purchaser: sign here only if the dealer told  
2           you that this vehicle has the following problem(s) and that  
3           you agree to buy the vehicle on those terms:

- 4           1. \_\_\_\_\_  
5           2. \_\_\_\_\_  
6           3. \_\_\_\_\_

7           ~~I.~~ I. The dealer has the burden to prove by a preponderance of the  
8           evidence that the dealer complied with subsection ~~I~~ H of this section.

9           ~~K.~~ J. Any purchaser or seller who is aggrieved by a transaction  
10          pursuant to this section and who seeks a legal remedy shall pursue any  
11          appropriate remedy prescribed in title 47, chapter 2 and shall comply with  
12          the requirements prescribed in title 47, chapter 2.

13          Sec. 6. Effective date

14          Except as provided in section 7 of this act, this act is effective  
15          from and after December 31, 2019.

16          Sec. 7. Conditional enactment

17          Section 28-4301, Arizona Revised Statutes, as amended by Laws 2018,  
18          chapter 298, section 6 and this act, becomes effective on the date  
19          prescribed by Laws 2018, chapter 298, section 12 but only on the  
20          occurrence of the condition prescribed by Laws 2018, chapter 298,  
21          section 12 and not before from and after December 31, 2019.