

8003--A

2015-2016 Regular Sessions

I N   A S S E M B L Y

June 4, 2015

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Introduced by M. of A. PERRY -- read once and referred to the Committee on Transportation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the vehicle and traffic law, in relation to mobility vehicles and new mobility vehicles

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. Subdivision 1 of section 415 of the vehicle and traffic  
2     law, as amended by chapter 7 of the laws of 2000, is amended to read as  
3     follows:  
4     1. Definitions. The following terms when used in this article, shall  
5     be deemed to mean and include:  
6     a. "Dealer" means a person engaged in the business of buying, selling  
7     or dealing in motor vehicles, motorcycles or trailers, other than mobile  
8     homes or manufactured homes, at retail or wholesale; except, however,  
9     trailers with an unladen weight of less than one thousand pounds. For  
10    the purposes of this section, a "mobile home" or "manufactured home"  
11    means a mobile home or manufactured home as defined in section one  
12    hundred twenty-two-c of this chapter. Any person who sells, or offers  
13    for sale more than five motor vehicles, motorcycles or trailers in any  
14    calendar year or who displays or permits the display of three or more  
15    motor vehicles, motorcycles or trailers for sale at any one time or  
16    within any one calendar month upon premises owned or controlled by him  
17    OR HER, if such vehicles were purchased, acquired or otherwise obtained  
18    by such person for the purpose of resale, will be regarded as a dealer.  
19    Except as otherwise provided in subdivisions three, five, six-b, and  
20    seven of this section, the term "dealer" shall include a "new motor  
21    vehicle dealer" as defined by paragraph f of this subdivision and a  
22    "qualified dealer" as defined in paragraph g of this subdivision.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

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1 b. "Person" means any natural person, firm, corporation, partnership,  
2 limited liability company, entity, joint venture, association or organ-  
3 ization.

4 c. "Place of business" means a designated location at which the busi-  
5 ness of the dealer is conducted, and, in relation to a retail dealer,  
6 facilities for displaying new or used motor vehicles.

7 d. "Retail dealer" means a dealer whose business consists in whole or  
8 in part of buying, selling or dealing in motor vehicles, motorcycles or  
9 trailers at retail.

10 e. "Wholesale dealer" means a dealer whose business consists exclu-  
11 sively of buying, selling or dealing in motor vehicles, motorcycles or  
12 trailers at wholesale.

13 f. "New motor vehicle dealer" means a dealer who engages in the activ-  
14 ities described in paragraph a of this subdivision if such activities  
15 relate to new motor vehicles and if such dealer is party to a franchise,  
16 as the terms "new motor vehicle" and "franchise" are defined in section  
17 four hundred sixty-two of this title; provided, however, for purposes of  
18 this definition, a new motor vehicle shall include only those motor  
19 vehicles commonly classified as a passenger automobile, sport utility  
20 vehicle, light truck, pickup truck, van, minivan, or suburban, with a  
21 gross vehicle weight rating of ten thousand pounds or less, and shall  
22 not include (i) any such vehicle which has been converted for use as a  
23 tow truck, or (ii) a motor vehicle for which the current ownership docu-  
24 ment is a statement of acquisition issued pursuant to section four  
25 hundred twenty-nine of this title, a salvage certificate, salvage  
26 certificate of title, nonrepairable certificate, or similar document  
27 issued by any state or jurisdiction; or (iii) any motor vehicle commonly  
28 classified as a bus, school bus, garbage truck, marine trailer, tow  
29 truck, motorcycle, recreational vehicle, snowmobile, trailer, mobile  
30 home or construction equipment; and provided further that: (I) a dealer  
31 is a new motor vehicle dealer only with respect to those vehicles which  
32 are of the same make as those which that dealer is authorized to sell at  
33 that location pursuant to a valid franchise agreement; AND (II) A DEALER  
34 IS NOT ACTING AS A NEW MOTOR VEHICLE DEALER WHEN DISPLAYING, ADVERTIS-  
35 ING, STORING AND/OR DEMONSTRATING A NEW MOBILITY VEHICLE.

36 g. "Qualified dealer" means a dealer, other than a new motor vehicle  
37 dealer or a dealer owned in whole or in part, directly or indirectly, by  
38 a manufacturer, who:

39 (i) acting through a single person, but operating at one or more  
40 locations of such single person, has displayed new motor vehicles for  
41 sale and/or lease, and has sold and/or leased (excluding sales or leases  
42 of any affiliates) a minimum of four thousand new and/or used motor  
43 vehicles annually (of which at least forty percent annually were new  
44 motor vehicles) at retail regardless of make or model from any one or  
45 more locations of such single person within the state, in each year from  
46 nineteen hundred ninety-five through and including nineteen hundred  
47 ninety-eight, exclusively; or

48 (ii) has displayed new motor vehicles for sale and/or lease, and has  
49 sold and/or leased (excluding sales or leases of any affiliates) a mini-  
50 mum of two hundred twenty-five new and/or used motor vehicles (of which  
51 at least thirty-three and one-third percent were new motor vehicles) at  
52 retail, regardless of make or model, from any one or more locations  
53 within the state, in the twelve-month period preceding August thirty-  
54 first, nineteen hundred ninety-nine; or

55 (iii) was issued an original certificate of registration as a dealer  
56 with a validation date of May, nineteen hundred ninety-nine, has

1 displayed new motor vehicles for sale and/or lease, and has sold and/or  
2 leased (excluding sales or leases of any affiliates) a minimum of one  
3 hundred fifty new and/or used motor vehicles (of which at least fifty  
4 were new motor vehicles), regardless of make or model, from any one or  
5 more locations within the state, in the period between July first, nine-  
6 teen hundred ninety-nine and the effective date of [the] chapter SEVEN  
7 of the laws of two thousand [which added this subparagraph]. Notwith-  
8 standing the provisions of subdivision eighteen of this section, the  
9 total number of locations from which a qualified dealer eligible pursu-  
10 ant to this subparagraph may operate shall not exceed that number of  
11 locations operated by such qualified dealer on August thirty-first,  
12 nineteen hundred ninety-nine; or

13 (iv) was issued a certificate of registration as a dealer new and used  
14 with a validation date of February, nineteen hundred ninety-eight and  
15 has continuously held a certificate of registration as a dealer for the  
16 ten years preceding the effective date of [the] chapter SEVEN of the  
17 laws of two thousand [which added this subparagraph], and has sold  
18 and/or leased (excluding sales or leases of any affiliates) a minimum of  
19 two hundred new and/or used motor vehicles (of which at least twenty  
20 percent were new motor vehicles) regardless of make or model, from one  
21 or more locations within the state in the period between September  
22 first, nineteen hundred ninety-eight through and including August thir-  
23 ty-first, nineteen hundred ninety-nine.

24 h. For the purposes of this section, "new motor vehicle" means a motor  
25 vehicle commonly classified as a passenger automobile, sport utility  
26 vehicle, light truck, pick up truck, van, minivan or suburban which  
27 meets any one or more of the following criteria:

- 28 (i) a motor vehicle which has not been placed in consumer use; or  
29 (ii) a motor vehicle which has not been transferred to someone other  
30 than a distributor, new motor vehicle dealer, or qualified dealer; or  
31 (iii) a motor vehicle which has less than one thousand miles on the  
32 odometer.

33 Provided, however, that such term shall not include any such vehicle  
34 which has been converted for use as a tow truck or any motor vehicle  
35 commonly classified as a bus, school bus, garbage truck, marine trailer,  
36 tow truck, motorcycle, recreational vehicle, snowmobile, trailer, mobile  
37 home or construction equipment.

38 i. "Used motor vehicle" means any vehicle not included in the defi-  
39 nition of a new motor vehicle. Provided, however, that such term as used  
40 in paragraph g of this subdivision shall include only those motor vehi-  
41 cles commonly classified as a passenger automobile, sport utility vehi-  
42 cle, light truck, pick up truck, van, minivan or suburban, with a gross  
43 vehicle weight rating of ten thousand pounds or less, which (i) is not  
44 deemed to be a "new motor vehicle" pursuant to paragraph h of this  
45 subdivision, or (ii) has not been converted for use as a tow truck, or  
46 (iii) is not commonly classified as a bus, school bus, garbage truck,  
47 marine trailer, tow truck, motorcycle, recreational vehicle, snowmobile,  
48 trailer, mobile home, or construction equipment.

49 j. "Lease" means to arrange for a person to enter into an agreement  
50 subject to the provisions of article nine-A of the personal property  
51 law, or to act as a lessor as defined in such article.

52 K. "MOBILITY VEHICLE" MEANS A MOTOR VEHICLE THAT IS SPECIALLY  
53 CONVERTED AND EQUIPPED TO TRANSPORT A PERSON WITH A DISABILITY AND IS  
54 ALTERED OR MODIFIED FOR SUCH USE BY AN ALTERER OR FINAL STAGE MANUFAC-  
55 Turer pursuant to parts 567 and 568 of title 49 of the code of federal

1 REGULATIONS OR A MODIFIER PURSUANT TO PART 595 OF TITLE 49 OF THE CODE  
2 OF FEDERAL REGULATIONS AND THAT:

3 (I) HAS A CHASSIS THAT CONTAINS: (A) A PERMANENTLY LOWERED FLOOR OR  
4 PERMANENTLY LOWERED FRAME; OR (B) A PERMANENTLY RAISED ROOF AND RAISED  
5 DOOR; AND

6 (II) CONTAINS AT LEAST ONE OF THE FOLLOWING: (A) AN ELECTRONIC OR  
7 MECHANICAL WHEELCHAIR, SCOOTER, OR PLATFORM LIFT THAT ENABLES A PERSON  
8 TO ENTER OR EXIT THE VEHICLE WHILE OCCUPYING A WHEELCHAIR OR SCOOTER;  
9 (B) AN ELECTRONIC OR MECHANICAL WHEELCHAIR RAMP THAT IS INSTALLED AS AN  
10 INTEGRAL PART OR PERMANENT ATTACHMENT TO THE MOTOR VEHICLE.

11 FOR THE PURPOSES OF THIS SECTION, THE TERMS "ALTERER" AND "FINAL-STAGE  
12 MANUFACTURER" SHALL HAVE THE SAME MEANINGS AS SUCH TERMS ARE DEFINED IN  
13 PART 567.3 OF TITLE 49 OF THE CODE OF FEDERAL REGULATIONS, AND THE TERM  
14 "MODIFIER" SHALL MEAN ANY MOTOR VEHICLE REPAIR BUSINESS THAT MODIFIES A  
15 MOTOR VEHICLE TO ENABLE A PERSON WITH A DISABILITY TO OPERATE, OR RIDE  
16 AS A PASSENGER IN, THE MOTOR VEHICLE.

17 L. "NEW MOBILITY VEHICLE" MEANS A MOBILITY VEHICLE THAT HAS NOT PREVI-  
18 OUSLY BEEN TITLED OR REGISTERED FOR OPERATION BY A CONSUMER, EITHER AS A  
19 MOBILITY VEHICLE OR AS A MOTOR VEHICLE.

20 S 2. Subdivision 7 of section 415 of the vehicle and traffic law is  
21 amended by adding a new paragraph c-1 to read as follows:

22 C-1. SPECIAL PROVISIONS RELATING TO MOBILITY VEHICLES. (I) ANY DEALER,  
23 OTHER THAN A NEW MOTOR VEHICLE DEALER, ENGAGED IN DISPLAYING, ADVERTIS-  
24 ING, STORING AND/OR DEMONSTRATING MOBILITY VEHICLES SHALL NOTIFY  
25 PROSPECTIVE PURCHASERS REGARDING ANY WARRANTY ON THE MOBILITY MODIFICA-  
26 TIONS AND THE EFFECT OF ANY SUCH MODIFICATIONS OR ALTERATIONS ON ANY  
27 WARRANTY ON THE UNDERLYING MOTOR VEHICLE AND, UPON THE SALE OF ANY SUCH  
28 MOBILITY VEHICLE, PROVIDE THE PURCHASER WITH ANY WARRANTY INFORMATION  
29 AVAILABLE TO ANY SUCH DEALER RELATING TO THE UNDERLYING MOTOR VEHICLE.

30 (II) NOTWITHSTANDING THE PROVISIONS OF ARTICLE TWELVE-A OF THIS CHAP-  
31 TER, A DEALER ENGAGED IN DISPLAYING, ADVERTISING, STORING AND/OR DEMON-  
32 STRATING MOBILITY VEHICLES MAY, WITHOUT OBTAINING A REPAIR SHOP LICENSE  
33 PURSUANT TO SUCH ARTICLE TWELVE-A, PERFORM REPAIRS ON THOSE PARTS OF THE  
34 MOBILITY VEHICLE THAT ARE UNIQUE TO THE MODIFICATIONS MADE THERETO AND  
35 WHICH ARE NOT PART OF THE ORIGINAL MANUFACTURED MOTOR VEHICLE.

36 S 3. This act shall take effect on the thirtieth day after which it  
37 shall have become a law.